

# ATTACHMENT 72

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Tran, Binh K.

August 13, 2013

1

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

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IN RE: PROCESSED EGG PRODUCTS |  
ANTITRUST LITIGATION | MDL NO. 2002  
| 08-md-02002  
THIS DOCUMENT RELATES TO |  
Kraft Foods Global, Inc., et al. | HIGHLY  
v. United Egg Producers, Inc., | CONFIDENTIAL  
et al., No. 2:12-cv-00088-GP |

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Tuesday, August 13, 2013

9:00 a.m.

Videotaped deposition of BINH K. TRAN, convened at the law offices of Blackwell, Burke, P.A., 431 7th Street S., Suite 2500, Minneapolis, Minnesota 55415, pursuant to notice, the proceedings being recorded stenographically by Jonathan Wonnell, a Registered Professional Court Reporter (NCRA #835577) and Notary Public of the State of Minnesota, and transcribed under his direction.

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<p style="text-align: center;">2</p> <p><b>APPEARANCES OF COUNSEL</b></p> <p>On behalf of the Plaintiff General Mills and the Deponent:      RICHARD P. CAMPBELL, ESQ.      SARAH S. ANSARI, ESQ.      Jenner &amp; Block LLP      330 North Clark Street      Chicago, Illinois 60654-3456      (312) 840-9530      rcampbell@jenner.com      sansari@jenner.com      -- and --      MARY E. KIEDROWSKI, ESQ.      RACHEL A. NEWBERGER, ESQ.      General Mills      Number One General Mills Boulevard      Minneapolis, Minnesota 55426      (763) 764-6698      mary.kiedrowski@gennmills.com      rachel.newberger@gennmills.com</p>	<p style="text-align: center;">4</p> <p><b>APPEARANCES (Cont'd)</b></p> <p>On behalf of the Defendant Rose Acre Farms:      JOHN C. MONICA, JR., ESQ. (via phone)      Porter, Wright, Morris &amp; Arthur LLP      1919 Pennsylvania, N.W., Suite 500      Washington, D.C. 20006-3434      (202) 778-3050      jmonica@porterwright.com</p> <p>On behalf of the Defendant Michael Foods:      PETER J. SCHWINGLER, ESQ. (via phone)      Leonard, Street and Deinard      150 South Fifth Street, Suite 2300      Minneapolis, Minnesota 55402      (612) 335-7023      peter.schwingler@leonard.com</p>
<p style="text-align: center;">3</p> <p><b>APPEARANCES (Cont'd)</b></p> <p>On behalf of the Defendant United Egg Producers and United States Egg Marketers:      EVAN W. DAVIS, ESQ.      Pepper Hamilton LLP      3000 Two Logan Square      Eighteenth and Arch Streets      Philadelphia, Pennsylvania 19103-2799      (215) 981-4000      davisw@pepperlaw.com</p> <p>On behalf of the Defendant Sparboe Farms:      TROY J. HUTCHINSON, ESQ.      Briggs &amp; Morgan      2200 IDS Center      80 South 8th Street      Minneapolis, Minnesota 55402      (612) 977-8400      thutchinson@briggs.com</p>	<p style="text-align: center;">5</p> <p><b>APPEARANCES (Cont'd)</b></p> <p>On behalf of the Defendant Midwest Poultry Services:      E. JASON BURKE, ESQ. (via phone)      Faegre Baker Daniels      311 South Wacker Drive, Suite 4400      Chicago, Illinois 60606-6622      (312) 212-2264      jason.burke@faegredb.com</p> <p>On behalf of the Defendant Daybreak Foods:      MICHAEL L. KUPPERSMITH, ESQ. (via phone)      Crowell &amp; Moring      1001 Pennsylvania Avenue, N.W.      Washington, D.C. 20004-2595      (202) 624-2500      mkuppersmith@crowell.com</p> <p>ALSO PRESENT:      DEAN HIBBEN, Videographer</p>

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<p>1 P R O C E E D I N G S 2 (9:03 a.m.)</p> <p>3 THE VIDEOGRAPHER: We are on the record.</p> <p>4 This is the videotaped deposition of Binh K. Tran 5 taken on August 13th 2013. The time now is 6 approximately 9:03 a.m. The deposition is being 7 taken in the matter of In Re: Processed Egg 8 Products Antitrust Litigation in the United States 9 District Court for the Eastern District of 10 Pennsylvania, Case Number MDL Number 2002 11 08-MD-02002.</p> <p>12 The deposition is taking place in 13 Minneapolis, Minnesota. My name is Dean Hibben. 14 I'm the videographer representing Henderson Legal 15 Services. Will counsel please identify themselves 16 for the record.</p> <p>17 MR. CAMPBELL: Richard Campbell of 18 Jenner &amp; Block on behalf of General Mills and the 19 deponent.</p> <p>20 MS. ANSARI: Sarah Ansari on behalf of 21 Jenner &amp; Block on behalf of General Mills.</p> <p>22 MS. KIEDROWSKI: I'm Mary Kiedrowski</p>	<p>10 reporter please swear in the witness. 11 * * * * *</p> <p>12 Whereupon, 13 BINH K. TRAN, 14 called as a Witness, was duly sworn by 15 Jonathan Wonnell, a Notary Public in and 16 for the State of Minnesota, and was 17 examined and testified as follows. 18 * * * * *</p> <p>19 EXAMINATION BY COUNSEL FOR THE 20 DEFENDANTS UNITED EGG PRODUCERS AND 21 UNITED STATES EGG MARKETERS 22 BY MR. DAVIS: 23 Q. Good morning, Mr. Tran. 24 A. <b>Good morning.</b> 25 Q. My name is Evan Davis. I'm an attorney for United Egg Producers and United States Egg Marketers. 26 Would you mind providing your -- 27 spelling your name and your -- give me your 28 position with General Mills? 29 A. <b>Okay. I am Binh Tran. That's spelled</b></p>
<p>1 from General Mills.</p> <p>2 MS. NEWBERGER: Rachel Newberger, 3 General Mills.</p> <p>4 MR. DAVIS: Evan Davis on behalf of the 5 United Egg Producers and the United States Egg 6 Marketers.</p> <p>7 MR. HUTCHINSON: Troy Hutchinson on 8 behalf of the defendant Sparboe Farms.</p> <p>9 THE VIDEOGRAPHER: Is someone on the 10 phone? Would you like to identify yourselves, 11 please?</p> <p>12 MR. MONICA: John Monica from Porter, 13 Wright, Morris &amp; Arthur for Rose Acre Farms, Inc.</p> <p>14 MR. SCHWINGLER: Pete Schwingler from 15 Leonard, Street &amp; Deinard on behalf of Michael 16 Foods.</p> <p>17 MR. BURKE: Jason Burke from Faegre 18 Baker &amp; Daniels on behalf of Midwest Poultry 19 Services.</p> <p>20 MR. KUPPERSMITH: Michael Kuppersmith 21 from Crowell &amp; Moring on behalf of Daybreak Foods.</p> <p>22 THE VIDEOGRAPHER: And would the court</p>	<p>11 13</p> <p>1 B-i-n-h. Last name is T-r-a-n. And I'm currently 2 our sourcing director in our purchasing group. And 3 I am responsible for our commodity spend.</p> <p>4 Q. And how long have you had that title? 5 A. I've had that title for the last 6 approximately 18 months.</p> <p>7 Q. What was your title prior to that? 8 A. I was a senior sourcing manager for our 9 commodities group.</p> <p>10 Q. So is your current title a promotion? 11 A. That's correct.</p> <p>12 Q. And how long were you a senior sourcing 13 manager? 14 A. Approximately three years.</p> <p>15 Q. Did you have similar responsibilities to 16 your job now? 17 A. I did. Yes.</p> <p>18 Q. And what were you prior to being a 19 senior sourcing manager? 20 A. I was a buyer.</p> <p>21 Q. Also for commodities? 22 A. No. For other raw materials like</p>

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<p style="text-align: center;">14</p> <p><b>1 packaging and ingredients and capital equipment.</b></p> <p>2 Q. How long were you a buyer?</p> <p>3 A. <b>Approximately six years.</b></p> <p>4 Q. And did you have a position prior to 5 that with General Mills?</p> <p>6 A. <b>No, I did not.</b></p> <p>7 Q. Where did you work prior to General 8 Mills?</p> <p>9 A. <b>Prior to General Mills, I was an 10 entrepreneur. I did my -- I did restaurants and 11 real estate for myself.</b></p> <p>12 Q. And did you have any other employers 13 after graduating from school?</p> <p>14 A. <b>No.</b></p> <p>15 Q. And can you tell me about your 16 educational background. Do you have an 17 undergraduate degree?</p> <p>18 A. <b>Yeah. I have an undergraduate degree in 19 genetic engineering and an MBA.</b></p> <p>20 Q. Now, in your current role as sourcing 21 director, do you have responsibility for the 22 purchase of eggs or egg products?</p>	<p style="text-align: center;">16</p> <p>1 case?</p> <p>2 A. <b>We had a -- it was -- it was adultered 3 specifications. The supplier did not send us the 4 right specification. Hence we had to issue a 5 recall.</b></p> <p>6 Q. Was General Mills a plaintiff or a 7 defendant in that case?</p> <p>8 A. <b>We were a plaintiff.</b></p> <p>9 Q. How long ago did you give testimony in 10 that?</p> <p>11 A. <b>It was about probably two years ago.</b></p> <p>12 Q. All right. So you are presumably at 13 least somewhat familiar with this process, but I 14 will go over it very briefly. As you can tell, 15 there is a court reporter here and also a 16 videographer and they are going to be taking down 17 all of your testimony today. You understand that 18 you're under oath?</p> <p>19 A. <b>I do.</b></p> <p>20 Q. And you understand that this deposition 21 can be used at trial should this case go to trial?</p> <p>22 A. <b>Understood.</b></p>
<p style="text-align: center;">15</p> <p>A. <b>I do not.</b></p> <p>Q. And did you have responsibility for the purchase of egg or egg products in your role as senior sourcing manager?</p> <p>A. <b>I did.</b></p> <p>Q. How about in your role as buyer?</p> <p>A. <b>I did also.</b></p> <p>Q. And in what year did you join General Mills?</p> <p>A. <b>2003.</b></p> <p>Q. Have you ever had your deposition taken before?</p> <p>A. <b>I have.</b></p> <p>Q. How many times?</p> <p>A. <b>Once.</b></p> <p>Q. And in what type of case was that?</p> <p>A. <b>It was a litigation case regarding meat products.</b></p> <p>Q. And did you testify on behalf of General Mills?</p> <p>A. <b>I did.</b></p> <p>Q. And what were the allegations in that</p>	<p style="text-align: center;">17</p> <p>Q. It's important that you provide oral responses to any questions so that the court reporter can take them down. Do you understand that?</p> <p>A. <b>I do.</b></p> <p>Q. We can take a break whenever you'd like one. Just let me know. I'd be happy to accommodate you. I ask only that you don't take a break while a question is pending. If I've asked a question, I'd like you to answer that before we take a break. Is that okay?</p> <p>A. <b>That's okay.</b></p> <p>Q. If you don't understand any of my questions, please ask me to clarify them. I'll do my best so that you understand all of my questions and you can provide answers to those questions.</p> <p>A. <b>Yup.</b></p> <p>Q. I ask that you answer the questions fully and to the best of your knowledge. Is there any reason why you can't do so today?</p> <p>A. <b>No.</b></p> <p>Q. Okay. Are you aware that General Mills</p>

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<p style="text-align: center;">18</p> <p>1 has filed a lawsuit against a number of entities 2 including United Egg Producers, United States Egg 3 Marketers and a number of egg producers?</p> <p>4     <b>A. I am aware.</b></p> <p>5     Q. And what is your understanding of the 6 allegations made in that lawsuit?</p> <p>7     <b>A. My understanding of it is what I have 8 received through our legal counsel and what has 9 been filed in the complaint.</b></p> <p>10    Q. And do you have any understanding of 11 what the allegations are that General Mills is 12 making?</p> <p>13    MR. CAMPBELL: I object on the grounds 14 that -- to the extent it calls for conversations 15 with counsel, it's privileged.</p> <p>16    MR. DAVIS: I agree.</p> <p>17    BY MR. DAVIS:</p> <p>18    Q. And I'm certainly not asking you to 19 divulge anything that your attorneys have told you. 20 I'm merely asking what your understanding of the 21 allegations is.</p> <p>22    <b>A. Well, other than what's in the</b></p>	<p style="text-align: center;">20</p> <p>1     <b>A. Yes, I have.</b> 2     Q. And what is Exhibit 1? 3     <b>A. It is the -- it's basically the 4 complaint that we're talking about here.</b> 5     Q. So is Exhibit 1 titled Defendants' 6 Notice of Deposition to Plaintiff General Mills, 7 Inc. Pursuant to Fed. R. Civ. P. 30(b)(6). Do you 8 see that? 9     <b>A. Mm-hmm.</b> 10    Q. And so is Exhibit 1 the Notice of 11 Deposition that was issued to General Mills in this 12 case? 13    <b>A. I believe so.</b> 14    Q. Have you ever seen this document before? 15    <b>A. I think I've seen components of it, but 16 I haven't read the -- this, all of it.</b> 17    Q. Which components of it have you seen? 18    <b>A. Some of the lines. You know, like the 19 first paragraph, I've seen that. But I haven't 20 seen some of these -- these other things on like 21 page 3, 4, et cetera.</b> 22    Q. If you would turn to page 6 --</p>
<p style="text-align: center;">19</p> <p>1     <b>complaint, that's my understanding.</b> 2     Q. Do you know what's contained in the 3 complaint? 4     <b>A. Yes. I have an understanding of it.</b> 5     Q. Have you read the complaint? 6     <b>A. I have read the complaint.</b> 7     Q. Okay. And do you believe that any of 8 the defendants named in the complaint have fixed 9 the price or supply of eggs? 10    MR. DAVIS: Objection, lack of 11 foundation. 12    <b>A. Can you clarify? Are you asking -- 13 clarify that question.</b> 14    BY MR. DAVIS: 15    Q. Sure. Let me start with this. I'll 16 hand you what's going to be market as Tran 1. 17    (Tran Exhibit 1 was 18    marked for 19    identification.) 20    BY MR. DAVIS: 21    Q. Mr. Tran, have you seen Exhibit 1 22 before?</p>	<p style="text-align: center;">21</p> <p>1     <b>A. Okay.</b> 2     Q. -- this begins Exhibit A. Have you seen 3 Exhibit A to this document before? 4     MR. CAMPBELL: Look at the whole 5 Exhibit A, if you will, Mr. Tran. 6     THE WITNESS: Okay. 7     BY MR. DAVIS: 8     Q. Specifically on the bottom of the page 9 you'll notice a heading "Deposition Topics." 10    <b>A. (Reading). Okay. So page 9 you were -- 11 Deposition Topics. Your question is?</b> 12    Q. And the deposition topics go on. Do you 13 know whether or not you have seen this document 14 before? 15    <b>A. Yes. I've seen these questions.</b> 16    Q. And do you understand that the testimony 17 that you give today is, in fact, on behalf of 18 General Mills? 19    <b>A. I do understand that.</b> 20    Q. Okay. Now, what did you do to prepare 21 for your deposition today? 22    <b>A. I have talked to our legal counsel</b></p>

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<p style="text-align: center;">22</p> <p>numerous times. I have also talked to some of the experts within our company, that is outside of sourcing and inside of sourcing, both current and former employees.</p> <p>Q. Which legal counsel did you speak with?</p> <p><b>A. The ones that are sitting in the room today.</b></p> <p>Q. All four of the individuals in the room?</p> <p><b>A. Yes.</b></p> <p>Q. And when did you meet with these individuals?</p> <p><b>A. You know, over last several months, I've met with our internal counsel probably about three times and our external counsel an additional three times.</b></p> <p>Q. And when did you first meet with your external counsel?</p> <p><b>A. I'd say a couple months ago. Maybe two to three months ago, I started meeting with them.</b></p> <p>Q. For how long was that meeting?</p> <p><b>A. Each meeting has lasted about an hour and a half.</b></p>	<p style="text-align: center;">24</p> <p>communications director. I have talked to Chris Lomaro. Bonnie Welshon, who's in our quality and regulatory group. Steve Peterson, who is in our sustainability group. Amy Omman, who is in also in our sustainability group. Karen Rager, who is in quality and regulatory.</p> <p>Our buyers, our previous buyers who have purchased eggs that was internal to sourcing, so Paula West, Tiffany Mercuri, John Tiedeman, Derick McCluskey. Also talked to Namwa Sullivan, who is in our communications group.</p> <p>Q. I believe you mentioned Chris Lomaro?</p> <p><b>A. Yes.</b></p> <p>Q. What's Chris Lomaro's role with the company?</p> <p><b>A. He's in our quality and regulatory.</b></p> <p>Q. Is this the entire list of people within General Mills with whom you spoke?</p> <p><b>A. Yes.</b></p> <p>Q. Did you show any of these individuals the document that's been marked as Exhibit 1?</p> <p><b>A. No, I have not.</b></p>
<p style="text-align: center;">23</p> <p>Q. Okay. And then when was the next time you met with your external counsel?</p> <p><b>A. The next -- what do you mean? The --</b></p> <p>Q. You said you first met with them a few months ago; is that right?</p> <p><b>A. Yep.</b></p> <p>Q. And when was the next time after that?</p> <p><b>A. Probably a month ago. And the third time was within the last week.</b></p> <p>Q. Within the last week?</p> <p><b>A. Yeah.</b></p> <p>Q. Did you meet with them yesterday?</p> <p><b>A. Yeah.</b></p> <p>Q. And for how long did you meet with them yesterday?</p> <p><b>A. It was about two hours.</b></p> <p>Q. You said that you spoke with individuals at General Mills both inside of and outside of sourcing; is that right?</p> <p><b>A. Correct.</b></p> <p>Q. Who did you speak with?</p> <p><b>A. I've talked with Wendy Tai, who is our</b></p>	<p style="text-align: center;">25</p> <p>Q. Did you share with any of these individuals the deposition topics included on Exhibit A to Exhibit 1?</p> <p><b>A. No. I did not.</b></p> <p>Q. What did you ask these individuals?</p> <p><b>A. I asked them general questions around their experiences as it pertains to various topics that either impacted sustainability and social responsibility, external communications as it pertains to General Mills' positions around sustainability and social responsibility, specification and functionality of our ingredients, and then contract structures as it pertains to sourcing.</b></p> <p><b>You know, how -- who did we do business with, what kind of prices we paid, how did they look at their markets, you know, and how did they structure their contracts and how did they do the physical buying.</b></p> <p>MR. DAVIS: I'd like to show you what's been marked as Exhibit 2.</p> <p>(Tran Exhibit 2 was</p>

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<p>1 marked for 2 identification.)</p> <p>3 BY MR. DAVIS:</p> <p>4 Q. Do you recognize Exhibit 2?</p> <p>5 A. I do.</p> <p>6 Q. What is this document?</p> <p>7 A. This is a historical spend and volume 8 report that outlines how much we spent, with who we 9 spent and what type of materials we bought between 10 2004 and 2013.</p> <p>11 Q. And how was Exhibit 2 prepared?</p> <p>12 A. Exhibit 2 was prepared by pulling data 13 out of our ERP system, which is an SAP system that 14 basically stores all records of purchase orders, 15 you know, by price, volume, contracts, you know, at 16 the detail level and to which plants and which 17 suppliers it went to.</p> <p>18 Q. Did you pull the data from the ERP 19 system?</p> <p>20 A. For this particular report, I did.</p> <p>21 Q. You did? And when did you do that?</p> <p>22 A. I want to say about three months ago,</p>	<p>1 production schedules and what their production 2 demands are. They will put in a requisition that 3 then goes to the sourcing assistant, and at that 4 point, the sourcing assistant will create a 5 purchase order.</p> <p>6 Q. And this is done as part of General 7 Mills' regular business activities?</p> <p>8 A. Correct.</p> <p>9 Q. And it's a regular practice to input 10 that information?</p> <p>11 A. Correct.</p> <p>12 Q. And General Mills relies on its ERP 13 system to conduct business?</p> <p>14 A. Correct.</p> <p>15 Q. Is Exhibit 2 an accurate compilation of 16 the data from the ERP system?</p> <p>17 A. It is.</p> <p>18 Q. You said that this document begins with 19 data in 2004; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Why is there no data on this document 22 prior to 2004?</p>
<p>1 approximately.</p> <p>2 Q. Did you provide Exhibit 2 to your 3 outside counsel in this case?</p> <p>4 A. I did.</p> <p>5 Q. Tell me about the ERP system. Are all 6 purchase orders entered into that system?</p> <p>7 A. Yes, it is. So, you know, our company, 8 we can't make any purchases or pay any bills 9 unless -- for raw materials, unless there is a 10 specification that is in the system and the order 11 is -- the purchase order is put through the system.</p> <p>12 Q. And who inputs information into that 13 system?</p> <p>14 A. Physically, it would be a category 15 specialist or a sourcing assistant that is putting 16 in the physical order. And that assistant is 17 basically a buyer's assistant.</p> <p>18 Q. Does that assistant receive the 19 information from the buyer?</p> <p>20 A. They will receive a requisition from our 21 manufacturing plants. So our manufacturing plants 22 will call for -- you know, they'll know their</p>	<p>27</p> <p>1 A. Prior to 2004, General Mills -- General 2 Mills had made a very large purchase of the 3 Pillsbury company. And at that point, our ERP 4 system were two separate systems, one that was 5 housed within General Mills and one that was legacy 6 Pillsbury. And so our ERP system now is a 7 consolidated database of General Mills as the two 8 companies have merged. And that's all the history 9 that we have. We don't have any history that is 10 prior to 2004 because of the merger.</p> <p>11 Q. So does General Mills have any data 12 related to the purchasing of eggs or egg products 13 prior to 2004?</p> <p>14 A. Not in our ERP system.</p> <p>15 Q. Where does General Mills have data?</p> <p>16 A. Can you clarify what --</p> <p>17 Q. You said not in your ERP system. Does 18 General Mills have data somewhere other than in its 19 ERP system?</p> <p>20 A. Not from a purchasing standpoint. All 21 of those -- any legacy systems would have been 22 decommissioned by now.</p>

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<p style="text-align: center;">30</p> <p>1 Q. When would that decommissioning have 2 taken place?</p> <p>3 A. <b>I'm not sure. I wouldn't know.</b></p> <p>4 Q. Do you know if it was before or after 5 2008?</p> <p>6 A. <b>I wouldn't know.</b></p> <p>7 Q. So you said that General Mills does not 8 have data within purchasing related to its 9 purchasing of eggs or egg products; is that 10 correct?</p> <p>11 MR. CAMPBELL: Objection. That 12 misstates the testimony.</p> <p>13 BY MR. DAVIS:</p> <p>14 Q. Does General Mills have any data related 15 to its purchasing of eggs or egg products prior to 16 2004?</p> <p>17 A. <b>Again, I would say that, you know, 18 outside of our ERP system, we would not. If there 19 is other forms of data, I wouldn't be -- I'm not 20 aware of any.</b></p> <p>21 Q. To the best of your knowledge, General 22 Mills has no data related to its purchasing of eggs</p>	<p style="text-align: center;">32</p> <p>1 that.</p> <p>2 Q. Okay. If you look at the first page of 3 Exhibit 2, there are seven headings: Dried Whites, 4 Dried Whole, Dried Yolks, Egg Replacer, Frozen 5 Whole, Liquid Whites and Liquid Whole. Do you see 6 those?</p> <p>7 A. <b>Mm-hmm.</b></p> <p>8 Q. What are dried whites?</p> <p>9 A. <b>Dried whites is a specification that 10 basically calls for the white part of the egg to be 11 dried into powder form.</b></p> <p>12 Q. And dried yolks are the same thing for 13 yolks?</p> <p>14 A. <b>That's correct.</b></p> <p>15 Q. Dried whole is the same, but a 16 combination of the two?</p> <p>17 A. <b>Yes.</b></p> <p>18 Q. How about liquid whites?</p> <p>19 A. <b>That's just an undried version. It's in 20 its natural liquid form.</b></p> <p>21 Q. Are they pasteurized?</p> <p>22 A. <b>Generally they are.</b></p>
<p style="text-align: center;">31</p> <p>1 or egg products prior to 2004; is that correct?</p> <p>2 A. <b>No. I couldn't say that.</b></p> <p>3 Q. Why is that not correct?</p> <p>4 A. <b>Because there could be -- you know, 5 there could be some historical things from, I don't 6 know, an annual report or something that might be 7 out there. But, you know --</b></p> <p>8 Q. You are not aware of any data that 9 General Mills has related to its purchasing of eggs 10 or egg products prior to 2004; is that correct?</p> <p>11 A. <b>I'm not aware of anything.</b></p> <p>12 Q. Did you ask the approximately eleven or 13 twelve individuals with whom you spoke to prepare 14 for this deposition if they knew of any data that 15 exists at General Mills related to General Mills' 16 purchasing of egg products prior to 2004?</p> <p>17 A. <b>I did not ask that question to them.</b></p> <p>18 No.</p> <p>19 Q. Okay. If General Mills were asked to 20 provide its spend on eggs or egg products for years 21 prior to 2004, would it be able to do that?</p> <p>22 A. <b>I'm not aware of the capability to do</b></p>	<p style="text-align: center;">33</p> <p>1 Q. And liquid whole would be the same 2 thing, but the egg and the yolk combined?</p> <p>3 A. <b>That's right.</b></p> <p>4 Q. What is frozen whole?</p> <p>5 A. <b>Frozen is a cook IQFed whole egg.</b></p> <p>6 Q. What does IQF stand for?</p> <p>7 A. <b>Individually quick frozen.</b></p> <p>8 Q. And those are pasteurized as well?</p> <p>9 A. <b>No, not pasteurized. They would be 10 cooked. There is a kill step in it, but just not a 11 pasteurization.</b></p> <p>12 Q. You said that liquid whites -- are all 13 of them pasteurized or not all?</p> <p>14 A. <b>I believe all of them would be 15 pasteurized.</b></p> <p>16 Q. What is egg replacer?</p> <p>17 A. <b>It's like a grain or something that is 18 not an egg that can be used to extend egg products. 19 So it could be made up of soy or wheat flour or 20 something.</b></p> <p>21 Q. Now, within each of these seven types, 22 are there multiple different products that General</p>

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<p>34</p> <p>1 Mills purchases?</p> <p>2     <b>A. I'm sorry. Could you ask the question</b>  <b>again?</b></p> <p>3     Q. If you turn to page 3 of Exhibit 2 --</p> <p>4 and this is a spreadsheet that continues on to the</p> <p>5 following pages.</p> <p>6     <b>A. Mm-hmm.</b></p> <p>7     Q. If you turn to page 4, the first</p> <p>8 column --</p> <p>9       MR. CAMPBELL: I don't know which page 4</p> <p>10 is, Evan. Could you hold it up? How many pages</p> <p>11 after the blue --</p> <p>12       MR. DAVIS: It's the second page after</p> <p>13 the blue page.</p> <p>14       MR. CAMPBELL: Okay. Fine.</p> <p>15       BY MR. DAVIS:</p> <p>16       Q. The first column lists a number of</p> <p>17 different products; is that correct?</p> <p>18       <b>A. Yup.</b></p> <p>19       Q. And are these all specific product types</p> <p>20 that fall into the more general product types</p> <p>21 listed on page 1?</p>	<p>36</p> <p>1 products; is that correct?</p> <p>2     <b>A. That's correct.</b></p> <p>3     Q. And how does General Mills define egg</p> <p>4 products?</p> <p>5     <b>A. Well, egg products are anything that are</b>  <b>derived from an egg and then, you know -- and its</b>  <b>derivatives of that would be considered egg</b>  <b>products.</b></p> <p>6     Q. Is it fair to define egg products as</p> <p>7 shell eggs that are broken and sold in liquid,</p> <p>8 frozen or dried form?</p> <p>9     <b>A. That would be a fair statement.</b></p> <p>10    Q. The column headers on page 1 refer to</p> <p>11 invoiced amounts in U.S. dollars. Do you see that?</p> <p>12    <b>A. Yup.</b></p> <p>13    Q. What are invoiced amounts?</p> <p>14    <b>A. How much we paid for the eggs.</b></p> <p>15    Q. So it's the amount of money that General</p> <p>16 Mills actually paid?</p> <p>17    <b>A. That's right.</b></p> <p>18    Q. Is that always identical to the amount</p> <p>19 of money that General Mills was invoiced?</p>
<p>35</p> <p>1     <b>A. Yes. The differences would be things</b>  <b>like packaging type that would make up the -- that</b>  <b>would expand the number here. But generally they</b>  <b>would fall under the seven different types. Then</b>  <b>you would just get different packaging</b>  <b>configurations.</b></p> <p>2     Q. Let's start with -- go back to page 1.</p> <p>3     <b>A. Mm-hmm.</b></p> <p>4     Q. Dried whites. Are all of the dried</p> <p>5 whites that General Mills purchases the same except</p> <p>6 for the packaging?</p> <p>7     <b>A. Yeah, pretty much.</b></p> <p>8     Q. The specifications are identical?</p> <p>9     <b>A. Mm-hmm.</b></p> <p>10    Q. And is that true for all seven types of</p> <p>11 egg products listed here?</p> <p>12    <b>A. Yes.</b></p> <p>13    Q. Does General Mills purchase any shell</p> <p>14 eggs?</p> <p>15    <b>A. We do not.</b></p> <p>16    Q. So General Mills' purchasing of -- all</p> <p>17 of the items that comprise Exhibit 2 are egg</p>	<p>37</p> <p>1     <b>A. Yes, it would be.</b></p> <p>2     Q. Does General Mills ever receive any</p> <p>3 rebates or discounts on its purchase of egg</p> <p>4 products?</p> <p>5     <b>A. No. We don't get any rebates or</b>  <b>discounts.</b></p> <p>6     Q. Has General Mills ever been credited</p> <p>7 money from providers of egg products?</p> <p>8     <b>A. Yes, we have, in cases where there are</b>  <b>quality issues or off-specification issues in</b>  <b>materials that we've received, we'll get a credit</b>  <p>9 and -- after, you know, we've paid the invoice,</p> <p>10 we'll get a credit back from the supplier to return</p> <p>11 the product.</p> <p>12    Q. And are the amounts -- do the amounts</p> <p>13 listed on Exhibit 2 take into account those credits</p> <p>14 that General Mills has received?</p> <p>15    <b>A. It depends. It depends on how the</b>  <p>16 credit was received. So we can either get a</p> <p>17 physical check or electronic funds transfer from</p> <p>18 the supplier if we've already paid the invoice.</p> <p>19    <b>B. But if the invoice hasn't been paid, then we will</b></p> </p></p>

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<p style="text-align: center;">38</p> <p>1 just reverse the invoice and no money has been 2 transferred. So in cases where the money has 3 already been paid, that credit wouldn't be 4 reflected.</p> <p>5 Q. So the amount of money that General 6 Mills has actually spent on its purchase of egg 7 products is less than the amounts that are 8 reflected on Exhibit 2; is that right?</p> <p>9 A. That amount, that differential, would be 10 minuscule.</p> <p>11 Q. Tens of thousands of dollars?</p> <p>12 A. A few thousand dollars, if anything.</p> <p>13 Q. So between 2004 and 2013, General Mills 14 has received under \$10,000 of credits from 15 providers of egg products?</p> <p>16 A. I wouldn't know the exact amount between 17 2004 and present. It's dependent on what quality 18 issues that we would have had that would warrant 19 credit.</p> <p>20 Q. Well, you said it's a minuscule amount.</p> <p>21 A. Mm-hmm.</p> <p>22 Q. So I'm just trying to understand what</p>	<p style="text-align: center;">40</p> <p>1 made aware of that credit?</p> <p>2 A. Yes. The buyer would be made aware.</p> <p>3 Q. Okay. And given that awareness, is it 4 possible that General Mills has received hundreds 5 of thousands of dollars in credits for the purchase 6 of egg products during the time period listed on 7 Exhibit 2?</p> <p>8 MR. CAMPBELL: Objection, lack of 9 foundation, speculative.</p> <p>10 A. Yeah, you know, I would say the amount 11 of credits that we would receive compared to our 12 spend would be very minor, given that our quality 13 expectations and process really leads to very 14 little out-of-spec materials.</p> <p>15 And the suppliers that we do business 16 with and the expectation for quality and service 17 from those suppliers leads to very little, again, 18 out-of-spec materials; hence, little amount of 19 credit.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. I'm just trying to understand when you 22 say "little amount of credit" --</p>
<p style="text-align: center;">39</p> <p>1 you mean by "minuscule amount."</p> <p>2 A. Well, if you -- you know, a hundred 3 thousand dollars on a spend of millions is a 4 minuscule amount.</p> <p>5 Q. So it could be as much as a hundred 6 dollars?</p> <p>7 A. That's a possibility.</p> <p>8 Q. It could be several hundred thousand 9 dollars?</p> <p>10 MR. CAMPBELL: Objection, calls for 11 speculation, lack of foundation.</p> <p>12 BY MR. DAVIS:</p> <p>13 Q. Are you familiar with the credits that 14 General Mills has received related to its 15 purchasing of egg products?</p> <p>16 A. In general terms. I don't know the 17 exact amount.</p> <p>18 Q. Okay. But are you familiar with the 19 credits that General Mills has received?</p> <p>20 A. Can you clarify a little bit more?</p> <p>21 Q. When General Mills received a credit 22 related to its purchase of egg products, were you</p>	<p style="text-align: center;">41</p> <p>1 A. Mm-hmm.</p> <p>2 Q. -- what that could mean in your 3 estimation and whether or not that could include 4 hundreds of thousands of dollars.</p> <p>5 MR. CAMPBELL: Same objections, and 6 that's the third time you've asked that question 7 and you've gotten an answer, so it's been asked and 8 answered.</p> <p>9 MR. DAVIS: It's been asked. But I'd 10 like to understand whether it could be hundreds of 11 thousands of dollars.</p> <p>12 MR. CAMPBELL: Same objection.</p> <p>13 A. I don't know the exact amount.</p> <p>14 BY MR. DAVIS:</p> <p>15 Q. I understand that you don't know the 16 exact amount.</p> <p>17 A. Mm-hmm.</p> <p>18 Q. When you say that it's a minuscule 19 amount, do you use that term to include the 20 possibility that the amount is hundreds of 21 thousands of dollars?</p> <p>22 MR. CAMPBELL: Objection, speculative,</p>

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<p style="text-align: center;">42</p> <p>1      lack of foundation. He several times has said he 2      doesn't know the answer. You're being 3      argumentative now. 4      MR. DAVIS: I'm not. 5      BY MR. DAVIS: 6      Q. I'd like you to answer the question, 7      please. 8      A. Yeah, minuscule -- minuscule -- you 9      know, my definition of "minuscule" would be, you 10     know, under a percent of your actual spent. 11     Q. Aside from credits -- you said that 12    General Mills does not receive any rebates or 13    discounts related to its purchase of egg products; 14    is that correct? 15    A. Yeah, that's correct. 16    Q. Are there any other -- so aside from 17    credits, do the amounts reflected on Exhibit 2 18    reflect the exact amounts actually paid by General 19    Mills for the purchase of egg products? 20    A. It does. 21    Q. And was all of this spend related to 22    products that were shipped to General Mills in the</p>	<p style="text-align: center;">44</p> <p>1      Foods include purchases from their entity known as 2      Wallbaum? 3      A. Yes, they could. 4      Q. And does it also include purchases from 5      Inovatech? 6      A. Inovatech. I'm not sure if Michael 7      Foods bought Inovatech. But if they -- if Michael 8      Foods bought Inovatech, then, yes, it would. 9      Q. Now, did any of these suppliers ship egg 10     products to General Mills outside of the United 11     States? For example, in Canada? 12     A. Yeah. There would be a small amount 13     that would go into Canada. I think Michael 14     Foods -- Michael Foods would send some up there 15     from time to time. 16     Q. And are those amounts included in these 17     figures or have they been removed? 18     A. Those would be removed out of here. We 19     would have our Canada operations separate from the 20     U.S. operations. 21     Q. If you look in the first row for dried 22     whites --</p>
<p style="text-align: center;">43</p> <p>1      United States? 2      A. Can you clarify the question? Again, 3      when you're -- particularly when you're saying 4      shipped to locations in the U.S.? 5      Q. Correct. 6      A. Okay. Yes, they are. 7      Q. And did General Mills pay for -- these 8      headers are all U.S. dollars; is that right? 9      A. That's correct. 10     Q. Did General Mills actually pay all of 11     these invoices in U.S. dollars? 12     A. Yes. 13     Q. In the left-hand column, the first two 14     entries refer to Michael Foods and then Papetti's. 15     Do you see that? 16     A. Mm-hmm. I do. 17     Q. Do you know if Michael Foods and 18     Papetti's are the same company? 19     A. You know, over the years with the 20     consolidation that's gone on in the egg industry, 21     they could be. 22     Q. And do you know the entries from Michael</p>	<p style="text-align: center;">45</p> <p>1      A. Mm-hmm. 2      Q. -- you'll notice that between 2004 to 3      2005, the spend went from over \$22 million to just 4      over \$10 million. Do you see that? 5      A. Yes. 6      Q. And then from 2006 to 2007, the spend 7      went from just under \$10 million to over 8      \$17 million. Do you see that? 9      A. Yes. 10     Q. Do you know why those fluctuations 11     exist? 12     A. The fluctuations would exist depending 13     on our business. So, you know, we would have -- 14     part of it would be the market and then part of it 15     would be our business conditions. 16     Q. Did General Mills purchase far less in 17     quantity of dried whites in 2005 than it did in 18     2004? 19     A. I don't believe so, no. The business 20     was relatively stable between those two years. 21     Q. And was the business -- did the quantity 22     change between 2006 and 2007?</p>

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<p style="text-align: center;">46</p> <p>1           MR. CAMPBELL: Could you clarify what 2       you mean by "quantity," Evan, in that circumstance? 3       Are you talking about dollar volume? What are you 4       talking about?</p> <p>5           MR. DAVIS: No. I'm talking about a 6       volume basis.</p> <p>7           MR. CAMPBELL: A what?</p> <p>8           MR. DAVIS: A volume basis, or a weight 9       basis, however you measure quantity.</p> <p>10          MR. CAMPBELL: Okay.</p> <p>11          <b>A. Pounds? The exact number I wouldn't 12       know off the top of my head. The details certainly 13       are in this exhibit as you look at the details in 14       the following pages.</b></p> <p>15          BY MR. DAVIS:</p> <p>16          Q. From 2004 onward, are you aware of any 17       large changes in the quantity any of these seven 18       product types that was purchased by General Mills?</p> <p>19          <b>A. Yeah. During that time between 2004, 20       you know, to present, General Mills has sold off 21       some businesses that used egg products.</b></p> <p>22          Q. What businesses were those?</p>	<p style="text-align: center;">48</p> <p>1           Q. Do you know if the quantity of frozen 2       whole increased between those two years?</p> <p>3           <b>A. The 2011? The quantity? I believe the 4       quantity -- the quantity didn't increase very 5       dramatically. I believe the -- we were testing out 6       a few new types of products during that -- during 7       that time frame.</b></p> <p>8           Q. Well, it looks like in 2011 for frozen 9       whole was when General Mills started purchasing 10       from Cargill; is that right?</p> <p>11          <b>A. That's correct.</b></p> <p>12          Q. And so was the frozen whole that was 13       being purchased from Cargill more expensive than 14       the product being purchased from Michael Foods?</p> <p>15          <b>A. I don't believe they were. They were 16       very similar in price.</b></p> <p>17          Q. So if they were similar in price and 18       General Mills spent over twice as much the next 19       year, did the quantity ordered go up?</p> <p>20          <b>A. I would say that the quantity increased 21       slightly as new products were being developed.</b></p> <p>22          Q. And you think that the price was almost</p>
<p style="text-align: center;">47</p> <p>1           <b>A. Some of our baking mix businesses for 2       food service applications.</b></p> <p>3           Q. When were those sold?</p> <p>4           <b>A. A lot of it happened around 2008, 2007, 5       approximately.</b></p> <p>6           Q. And which businesses were sold?</p> <p>7           <b>A. It would be our -- it's our food 8       service, baked goods, parts of that business as, 9       you know, individual plants were sold off.</b></p> <p>10          Q. And of these seven product types, which 11       of those were affected by the sale of these 12       business units?</p> <p>13          <b>A. The liquids would be probably the most 14       affected. And then some of the dried products.</b></p> <p>15          Q. Do you know which ones specifically?</p> <p>16          <b>A. It's probably -- it's a combination of 17       the three. So we'll use all three in some type of 18       baking -- baking application.</b></p> <p>19          Q. In 2011, the spend on frozen whole went 20       from a little over 1 million to a little over 21       \$3 million. Do you see that?</p> <p>22          <b>A. Mm-hmm.</b></p>	<p style="text-align: center;">49</p> <p>1           identical?</p> <p>2           <b>A. On a per-pound basis, yeah.</b></p> <p>3           Q. Does General Mills currently purchase 4       any egg products from Michael Foods?</p> <p>5           <b>A. Currently right now, we purchase a small 6       amount from them.</b></p> <p>7           Q. Is that reflected anywhere on Exhibit 2?</p> <p>8           <b>A. It is, with the dried whole.</b></p> <p>9           Q. How about Rose Acre? Does General Mills 10       currently purchase any egg products from Rose Acre?</p> <p>11          MR. CAMPBELL: Mr. Davis, I'm going to 12       object to this line of questioning. And we've 13       agreed that the discovery cutoff here is 2008. 14       I've allowed you to go well beyond that. But I'm 15       not going to allow you to persist in that. I don't 16       understand the relevance of what we currently 17       purchase.</p> <p>18          MR. DAVIS: I thought we had 19       specifically discussed asking questions about the 20       transaction data.</p> <p>21          MR. CAMPBELL: But now we're into 2013. 22       He may answer the question. I'm just stating the</p>

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<p style="text-align: center;">50</p> <p>1      objection for the record. All right?</p> <p>2      MR. DAVIS: Understood.</p> <p>3      <b>A. Can you ask your question again?</b></p> <p>4      BY MR. DAVIS:</p> <p>5      Q. I'll ask a different question. Did</p> <p>6      General Mills at one point stop purchasing egg</p> <p>7      products from Rose Acre Farms?</p> <p>8      <b>A. Yes, we did.</b></p> <p>9      Q. And did General Mills at one point</p> <p>10     substantially reduce the amount of egg product that</p> <p>11     it purchases from Michael Foods?</p> <p>12     <b>A. Yes, we did.</b></p> <p>13     Q. And why did that occur?</p> <p>14     <b>A. Because we found that we could find a</b>  <b>better cost and better value as far as service and</b>  <b>quality out of a different supplier versus Michael</b>  <b>Foods.</b></p> <p>15     Q. And the same for Rose Acre?</p> <p>16     <b>A. That's correct.</b></p> <p>17     Q. Are you aware that Michael Foods and</p> <p>18     Rose Acre are both defendants in this litigation?</p> <p>19     <b>A. I am aware.</b></p>	<p style="text-align: center;">52</p> <p>1      <b>suitable for General Mills' needs because they</b>  <b>didn't -- they didn't provide dried products.</b></p> <p>2      Q. And it's your belief that in 2008,</p> <p>3      Rembrandt began to provide dried products?</p> <p>4      <b>A. Yes.</b></p> <p>5      Q. For all of the suppliers listed on</p> <p>6      Exhibit 2, do you know if any of them became</p> <p>7      suppliers at some point 1999 or later?</p> <p>8      <b>A. I'm sorry. Can you ask your question</b>  <b>again?</b></p> <p>9      Q. So, for example, Rembrandt became a</p> <p>10     supplier to General Mills in 2008; is that right?</p> <p>11     <b>A. Correct.</b></p> <p>12     Q. And you can tell that because the first</p> <p>13     dollar entries for Rembrandt appear in 2008, right?</p> <p>14     <b>A. Correct.</b></p> <p>15     Q. So we don't have the columns for 1999</p> <p>16     through 2003.</p> <p>17     <b>A. Mm-hmm.</b></p> <p>18     Q. So we can't tell if any of these</p> <p>19     suppliers started to supply General Mills at some</p> <p>20     point after 1999 but before 2004 from this</p>
<p style="text-align: center;">51</p> <p>1      Q. And did General Mills' decision to</p> <p>2      either cease purchasing or substantially limit its</p> <p>3      purchasing from those two companies depend in any</p> <p>4      way on the fact that they are defendants in this</p> <p>5      litigation?</p> <p>6      <b>A. It did not.</b></p> <p>7      Q. According to Exhibit 2, did Rembrandt</p> <p>8      become a supplier to General Mills starting in</p> <p>9      2008?</p> <p>10     <b>A. It did.</b></p> <p>11     Q. Why did General Mills begin a purchasing</p> <p>12     relationship with Rembrandt in 2008?</p> <p>13     <b>A. Rembrandt gave us better cost and a</b>  <b>better cost model and structure that worked well</b>  <b>with our business that we found great value in.</b>  <b>You know, they had newer technology at the time and</b>  <b>could provide us better service.</b></p> <p>14     Q. Was General Mills aware of Rembrandt as</p> <p>15     a potential supply option prior to 2008?</p> <p>16     <b>A. Yeah. We knew that Rembrandt --</b>  <b>Rembrandt Foods was a player or a producer in the</b>  <b>egg industry. Prior to 2008, they really weren't</b></p>	<p style="text-align: center;">53</p> <p>1      document; is that right?</p> <p>2      MR. CAMPBELL: Why don't we just ask the</p> <p>3      question, which is does he know whether Michael</p> <p>4      Foods and Rose Acre supplied General Mills prior</p> <p>5      to -- between 1999 and 2003.</p> <p>6      MR. DAVIS: That wasn't my question.</p> <p>7      BY MR. DAVIS:</p> <p>8      Q. My question is whether or not General</p> <p>9      Mills added any new egg suppliers -- or egg product</p> <p>10     suppliers in the 1999 to 2003 period.</p> <p>11     <b>A. No. The list between '99 and 2003 would</b>  <b>look very similar to this. The last major change</b>  <b>that we had in our supply base would be Rembrandt.</b>  <b>Between '99 and 2003, we would still have Michael</b>  <b>Foods, Papetti's, Primera, and Rose Acres as</b>  <b>suppliers to General Mills.</b></p> <p>12     Q. From 1999 onward, aside from Rembrandt,</p> <p>13     did General Mills ever consider adding a new</p> <p>14     supplier of egg products?</p> <p>15     <b>A. We -- General Mills would always look at</b>  <b>other suppliers in the industry for potential</b>  <b>supply if it -- if there was a good value</b></p>

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<p style="text-align: center;">54</p> <p>1 proposition to form a partnership and form a supply 2 arrangement, we would.</p> <p>3 Q. Is there anyone specific that General 4 Mills considered as a supplier but did not 5 ultimately engage?</p> <p>6 A. No. No. Rembrandt would be the only 7 supplier that had a good value proposition.</p> <p>8 Q. Did General Mills ever receive pricing 9 proposals from other egg product suppliers that it 10 did not ultimately purchase from?</p> <p>11 MR. CAMPBELL: Could you define the time 12 period a little more clearly, Evan, please?</p> <p>13 BY MR. DAVIS:</p> <p>14 Q. From 1999 onward.</p> <p>15 A. Yeah. General Mills would get a lot of 16 pricing proposals from many suppliers and many 17 companies out there. These would be similar to 18 cold calls. You know, suppliers would call up and 19 say, I can give you eggs at this price.</p> <p>20 Q. But would they know General Mills' 21 specifications for egg products?</p> <p>22 A. No, they wouldn't.</p>	<p style="text-align: center;">56</p> <p>1 onward?</p> <p>2 A. No, we wouldn't.</p> <p>3 Q. No?</p> <p>4 A. No.</p> <p>5 Q. During the course of a negotiation with 6 an egg product supplier, would General Mills 7 negotiate the price that it paid for the egg 8 products?</p> <p>9 A. Yes. We would negotiate prices.</p> <p>10 Q. And how did that negotiation take place?</p> <p>11 A. Normally the negotiations would start 12 with referring to some type of market price 13 mechanism that is out there or index that could be 14 used as a reference to start the prices. Generally 15 we would use Urner Barry as an index to base prices 16 off of.</p> <p>17 Q. And that would be a starting point for 18 your negotiation?</p> <p>19 A. Yes.</p> <p>20 Q. And what would transpire between that 21 starting point and ultimately agreeing on a price 22 term?</p>
<p style="text-align: center;">55</p> <p>1 Q. But they would still quote a price 2 absent any knowledge of General Mills' 3 specifications?</p> <p>4 A. Yes. They would give general 5 specifications for what a dried white would look 6 like.</p> <p>7 Q. Prior to agreeing on pricing terms with 8 an egg product supplier, would General Mills share 9 its specifications with that supplier?</p> <p>10 A. Generally, no, we would not. So unless 11 we are -- unless General Mills is committed to 12 forming a relationship, we would not send out 13 specifications randomly.</p> <p>14 Q. Not randomly, but in the course of a 15 negotiation, when a negotiation got to a certain 16 point, would General Mills need to share its 17 specifications before the relationship could 18 actually be formalized?</p> <p>19 A. Yes, we would.</p> <p>20 Q. And did General Mills ever share its 21 specifications with any supplier of egg products 22 other than the ones listed on Exhibit 2 from 1999</p>	<p style="text-align: center;">57</p> <p>1 A. Well, that would give us our base price. 2 So Urner Barry would be the base price and then 3 freight and packaging would be added on top of 4 that.</p> <p>5 Q. But these terms were subject to 6 negotiation?</p> <p>7 A. The freight and packaging components are 8 generally the components that are up for 9 negotiations.</p> <p>10 Q. But ultimately General Mills pays a 11 price for its eggs?</p> <p>12 A. Yes. We do.</p> <p>13 Q. And the price terms that are being 14 ultimately agreed upon are subject to a negotiation 15 with the egg product suppliers; is that correct?</p> <p>16 A. Yes. The final delivered price is part 17 of the negotiations.</p> <p>18 (Tran Exhibit 3 was 19 marked for 20 identification.)</p> <p>21 BY MR. DAVIS:</p> <p>22 Q. I'll show you what's been marked as</p>

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<p style="text-align: center;">58</p> <p>1      Exhibit 3. If you look on the right-hand side of 2      Exhibit 3, you see a column "File Name." Do you 3      see that column?</p> <p>4      <b>A. I do.</b></p> <p>5      Q. And under that column are seven entries.</p> <p>6      <b>A. Mm-hmm.</b></p> <p>7      Q. Do you recognize these file names?</p> <p>8      <b>A. I guess they're just random file names.</b></p> <p>9      <b>I didn't create these files, so I don't really know what the files are.</b></p> <p>10     Q. All right. Well, I will represent to you that these are seven Excel files that were produced by General Mills in this litigation.</p> <p>11     <b>A. Mm-hmm.</b></p> <p>12     Q. And what I'm going to do, as painlessly as possible, is show you excerpts from each of these documents.</p> <p>13     <b>A. Okay.</b></p> <p>14     Q. And if you see near the left-hand side the column "Relativity ID" --</p> <p>15     <b>A. Mm-hmm.</b></p> <p>16     Q. -- those are what we call Bates numbers</p>	<p style="text-align: center;">60</p> <p>1      Q. Do you know what these numbers refer to?</p> <p>2      <b>A. Looking at it, it looks like invoice amounts or value amounts, as in dollars.</b></p> <p>3      Q. And they all have negative signs -- or not all. All but one on this excerpt have negative signs next to them; is that right?</p> <p>4      <b>A. Mm-hmm.</b></p> <p>5      Q. Do you know what the negative sign refers to?</p> <p>6      <b>A. It could be a payment, meaning that it's a credit out of our account to pay somebody else.</b></p> <p>7      Q. It could be or it is?</p> <p>8      <b>A. It could be.</b></p> <p>9      Q. Could it be money that's coming in to General Mills?</p> <p>10     MR. CAMPBELL: Objection, speculative. It's obvious that he has no foundation for -- have you ever seen this document before?</p> <p>11     THE WITNESS: I haven't seen this.</p> <p>12     MR. CAMPBELL: So you're asking him to speculate. He's never seen the document. He has no idea what this is.</p>
<p style="text-align: center;">59</p> <p>1      that General Mills has used to identify each of these files.</p> <p>2      I'll show you what's been marked as Exhibit 4.</p> <p>3      (Tran Exhibit 4 was marked for identification.)</p> <p>4      BY MR. DAVIS:</p> <p>5      Q. Exhibit 4 is an excerpt from the file named "Egg Invoice Request Confidential Attorney-Client Privileged."</p> <p>6      <b>A. Mm-hmm.</b></p> <p>7      Q. Do you recognize the file from which this was excerpted?</p> <p>8      <b>A. It looks like an inventory, inventory or a purchasing type of report.</b></p> <p>9      Q. So do you know if this reflects products that General Mills actually purchased and received?</p> <p>10     <b>A. I would believe it does.</b></p> <p>11     Q. The column LC Amount or "LC AMNT" at the top, do you see that?</p> <p>12     <b>A. Mm-hmm.</b></p>	<p style="text-align: center;">61</p> <p>1      BY MR. DAVIS:</p> <p>2      Q. Well, let me ask you, do you know what this document is?</p> <p>3      <b>A. No.</b></p> <p>4      Q. You don't know what the headers on this document refer to?</p> <p>5      <b>A. No. I don't know the details of it.</b></p> <p>6      Q. Do you know what they refer to?</p> <p>7      <b>A. No.</b></p> <p>8      Q. Okay.</p> <p>9      (Tran Exhibit 5 was marked for identification.)</p> <p>10     BY MR. DAVIS:</p> <p>11     Q. I'll show you what's been marked as Exhibit 5. The file name from which Exhibit 5 was excerpted is "2012-07-13 Egg Suppliers Archived POS2."</p> <p>12     <b>A. Mm-hmm.</b></p> <p>13     Q. Are you familiar with this file?</p> <p>14     <b>A. Yeah. It looks like a historic purchase order report.</b></p>

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<p style="text-align: right;">62</p> <p>1 Q. So does this file reflect all of General 2 Mills' -- well, I shouldn't say all. This file 3 reflects General Mills' purchases orders for egg 4 products; is that right?</p> <p>5     <b>A. It's a representation of our purchases.</b> 6     <b>It's not the total purchases.</b></p> <p>7     Q. If you would turn to page 2, on the far 8 right there's a column "Net Price." Do you see 9 that column?</p> <p>10    <b>A. I do.</b></p> <p>11    Q. What does "net price" refer to?</p> <p>12    <b>A. Net price -- net price would be the</b> 13 <b>total amount that we would pay with packaging,</b> 14 <b>delivery, all that.</b></p> <p>15    Q. And if you flip to page 3, the first two 16 columns on page 3 are "USD." That means U.S. 17 dollars; is that right?</p> <p>18    <b>A. Yes.</b></p> <p>19    Q. And then in the "Per" column "1LB."</p> <p>20    <b>A. Mm-hmm.</b></p> <p>21    Q. Does that mean that the net price is on 22 a per-pound basis?</p>	<p style="text-align: right;">64</p> <p>1     Q. And if you compare those numbers to the 2 numbers on page 2 in the "Quantity" column --</p> <p>3     <b>A. Mm-hmm.</b></p> <p>4     Q. -- is it your understanding that 5 "delivered" refers to the quantity in pounds that 6 was actually delivered by the supplier?</p> <p>7     <b>A. That's right.</b></p> <p>8     Q. So if the number in the "Delivered" 9 column were smaller than the number in the 10 "Quantity" column, would that mean that not all of 11 the purchase order was, in fact, delivered?</p> <p>12    <b>A. That's correct.</b></p> <p>13    Q. And would the dollar values in gross 14 value and net value refer to the value of the 15 delivered number or the quantity number?</p> <p>16    <b>A. It would be referring to the quantity</b> 17 <b>number.</b></p> <p>18    Q. Would General Mills actually pay that 19 amount or would it only pay for the product that 20 was actually delivered?</p> <p>21    <b>A. It would pay for the product that was</b> 22 <b>actually delivered. So -- yeah.</b></p>
<p style="text-align: right;">63</p> <p>1     <b>A. It does.</b></p> <p>2     Q. Moving down on page 3, "Gross VAL." 3 What does that column refer to?</p> <p>4     <b>A. The gross value is taking -- it's the</b> 5 <b>pounds that is ordered times the net price to</b> 6 <b>equate to the gross value of the purchase order.</b></p> <p>7     Q. And what is net value?</p> <p>8     <b>A. Net value would be in cases where there</b> 9 <b>is volume discounts that could be applied that gets</b> 10 <b>taken off of the gross value.</b></p> <p>11    Q. Does General Mills ever receive volume 12 discounts?</p> <p>13    <b>A. Not for eggs.</b></p> <p>14    Q. So would it be your expectation that net 15 value would always equal gross value?</p> <p>16    <b>A. Yup.</b></p> <p>17    Q. Can you think of any reason why the two 18 numbers would not be equal?</p> <p>19    <b>A. Not in this situation.</b></p> <p>20    Q. On the far right, the column 21 "Delivered," do you see that?</p> <p>22    <b>A. Yup.</b></p>	<p style="text-align: right;">65</p> <p>1     Q. So if not all of the product were 2 delivered, then the dollar values in gross value 3 and net value would be higher than the amount 4 actually paid by General Mills?</p> <p>5     MR. CAMPBELL: I'm going to object. I 6 see no difference in looking at the "Quantity" 7 column and the "Delivered" column. They're 8 identical.</p> <p>9     MR. DAVIS: I've represented that this 10 is a column from the spreadsheet. So if the 11 numbers were different, as the question stated.</p> <p>12    MR. CAMPBELL: Objection, speculative. 13 There's no foundation. The numbers are different.</p> <p>14    You can answer that, Mr. Tran, if you 15 can.</p> <p>16    <b>A. So can you ask your question again?</b></p> <p>17    BY MR. DAVIS:</p> <p>18    Q. If not all of the product were delivered 19 by the egg product supplier, would the dollar 20 values in the "Gross Value" and "Net Value" columns 21 be higher than the dollar amounts actually paid by 22 General Mills?</p>

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<p style="text-align: right;">66</p> <p>1     <b>A. What would happen if not all of the 2     volume was delivered would be that we would either 3     expect the supplier to deliver the remaining 4     balance on that purchase order or we would amend 5     the purchase order to reflect reality, which would 6     then change the net value and the gross value. 7       Q. Would it also change the quantity value? 8       <b>A. It would change the quantity value.</b> 9       Q. I'll show you what's been marked as 10      Exhibit 6. 11                     (Tran Exhibit 6 was 12                     marked for 13                     identification.) 14      BY MR. DAVIS: 15       Q. Exhibit 6 is an excerpt from a file 16      titled "2012-07-13 Eggs Archived POS." Are you 17      familiar with that file? 18       <b>A. Yeah. It looks like a historical 19      purchase order.</b> 20       Q. Is there any difference that you know of 21      between the data that would be contained in this 22      file versus the one reflected in Exhibit 5?</b></p>	<p style="text-align: right;">68</p> <p>1     <b>they reference different purchase orders.</b> 2       Q. Why would purchase orders be kept in 3       more than one file? 4       <b>A. Because we have hundreds and thousands 5       of purchase orders.</b> 6       Q. So they're multiple versions of the same 7       type of file; is that a fair statement? 8       <b>A. Depending on which purchase orders you 9       pull, there will be different files.</b> 10      Q. How would General Mills determine which 11      purchase orders go into which file? 12      MR. CAMPBELL: I'm sorry. I didn't hear 13      that question. 14      BY MR. DAVIS: 15      Q. How does General Mills determine which 16      purchase orders are recorded in which of its 17      different files? 18      <b>A. I don't understand the question. I'm 19      not quite sure -- I'm not quite sure what you're 20      trying to get at.</b> 21      Q. If you compare the first entry in 22      Exhibit 5 and Exhibit 6, they appear to be for the</p>
<p style="text-align: right;">67</p> <p>1     <b>A. Can you clarify your question a little 2     bit more?</b> 3       Q. Sure. Are the inputs for Exhibits 5 and 4     6 the same? 5       MR. CAMPBELL: I'm sorry. I simply 6     don't understand that question. 7      BY MR. DAVIS: 8       Q. Do you understand what I mean by 9     "inputs"? 10      <b>A. Are the lines the same? Is that what 11     you're asking?</b> 12       Q. Are the headers -- to the extent that 13     the headers are the same -- 14      <b>A. Okay.</b> 15       Q. -- would the information be identical 16     for identical entries? 17      <b>A. It appears to be.</b> 18       Q. How are these two files different? 19      <b>A. Can you ask it in a different way?</b> 20       Q. Is there any difference between these 21     two files? 22      <b>A. Okay. These two files, they look like</b></p>	<p style="text-align: right;">69</p> <p>1     same quantity of product purchased from the same 2     supplier and delivered on the same date. Is that 3     right? 4       <b>A. That's right.</b> 5       Q. So are purchase orders recorded by 6     General Mills in more than one file? 7       <b>A. It depends on how you pull the reporting 8     file. But a purchase order is just -- that's 9     static. So if you have one purchase order, that's 10    just one purchase order that is stored in our 11    system.</b> 12       Q. So do you know how the files that are 13     excerpted in Exhibits 5 and 6 were created? 14       <b>A. I would believe it's a -- it looks like 15     it's a random pull.</b> 16       Q. Not the excerpts, but the files 17     themselves that were produced by General Mills in 18     this litigation. 19       <b>A. Oh. This file would come out of our ERP 20     system. So, you know, you just pull up a date or a 21     range and have it spit out the data to you.</b> 22       Q. And do you know how the actual documents</p>

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<p style="text-align: center;">70</p> <p>1 that were produced by General Mills in this 2 litigation were created?</p> <p>3     <b>A. Again, you'd just go to the ERP system, 4 pull out the data, put it into a Excel spreadsheet, 5 it looks like here.</b></p> <p>6     Q. But do you know what data was requested 7 to create these files?</p> <p>8     <b>A. Again, it looks like it's a random 9 sampling.</b></p> <p>10    Q. Again, not the excerpts, but the actual 11 files that were produced with the file types that 12 are referenced on Exhibit 4. I'm sorry. 13 Exhibit 3.</p> <p>14    <b>A. Can you ask it again? I guess I'm not 15 quite clear on what you're getting at.</b></p> <p>16    Q. Sure. So Exhibit 5 --</p> <p>17    <b>A. Mm-hmm.</b></p> <p>18    Q. -- is an excerpt from the second file 19 name listed in this "File Name" column on 20 Exhibit 3.</p> <p>21    <b>A. Okay.</b></p> <p>22    Q. And Exhibit 6 is an excerpt from this</p>	<p style="text-align: center;">72</p> <p>1 how the headers are situated, because you can 2 customize the data to show a header before another 3 header or, you know, one line item ahead of 4 another.</p> <p>5     Q. If you look at Exhibit 6, the fifth line 6 down, where the salesperson is listed as customer 7 service. Do you see that?</p> <p>8     <b>A. Mm-hmm.</b></p> <p>9     Q. If -- that entry certainly does not 10 appear on the excerpt that comprises Exhibit 5 and 11 I don't believe exists in the file from which 12 Exhibit 5 was derived.</p> <p>13    <b>A. It's a different purchase order.</b></p> <p>14    Q. So do you know why that entry exists on 15 the file excerpted in Exhibit 6, but not the file 16 excerpted in Exhibit 5?</p> <p>17    <b>A. It's -- I would say it's because it's a 18 random pull of data, and so when that random pull 19 generates its pull, it happened to pull this one 20 versus another one.</b></p> <p>21    Q. Are you suggesting that the entire files 22 themselves are random pulls of data?</p>
<p style="text-align: center;">71</p> <p>1 file name that's the third one listed in the "File 2 Name" column on Exhibit 3.</p> <p>3     <b>A. Mm-hmm.</b></p> <p>4     Q. And there is certainly overlap between 5 the entries on these two files.</p> <p>6     <b>A. Right.</b></p> <p>7     Q. And what I'm trying to understand is 8 how, if at all, these files are different from one 9 another, how they were created and what any 10 differences represent.</p> <p>11    <b>A. The headings -- the headings in both of 12 these files will depict the information that's 13 being pulled. The line items themselves are, you 14 know, just a random pull from the data source. So 15 the differences, the data itself, is static. It's 16 the same in how you pull the information by header 17 and then by the individual line. So that data 18 stays static.</b></p> <p>19    <b>So there shouldn't be any difference in 20 the headers and then the line items themselves. 21 Right? The only difference in these two files 22 would be the individual lines themselves and then</b></p>	<p style="text-align: center;">73</p> <p>1     <b>A. Well, the data is not random. The data 2 is actuals.</b></p> <p>3     Q. But -- sorry.</p> <p>4     <b>A. Go ahead.</b></p> <p>5     Q. The data that General Mills produced to 6 the defendants in this litigation is a random 7 selection of its purchase data?</p> <p>8     <b>A. It's a sampling. It's not all hundreds 9 of thousands of purchase orders. So this is a 10 representation.</b></p> <p>11    Q. You're talking about the exhibits 12 themselves?</p> <p>13    <b>A. Right.</b></p> <p>14    Q. Right. And do you know anything about 15 the actual Excel spreadsheets that were produced in 16 this litigation?</p> <p>17    <b>A. In how they were made and why certain 18 lines are chosen?</b></p> <p>19    Q. Yes.</p> <p>20    <b>A. No.</b></p> <p>21    Q. Okay. So if an entry is included on the 22 spreadsheet with relativity ID 33202, but not the</p>

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20 (Pages 74 to 77)

<p style="text-align: center;">74</p> <p>1 one with relativity ID 33201, you don't know why 2 that would be the case?</p> <p>3     <b>A. I don't.</b></p> <p>4     Q. I'll show you what's been marked as 5     Exhibit 7.</p> <p>6                 (Tran Exhibit 7 was 7                 marked for 8                 identification.)</p> <p>9     MR. CAMPBELL: Dean, where are we?</p> <p>10    THE VIDEOGRAPHER: We have about 30 11    minutes left on the video.</p> <p>12    MR. CAMPBELL: Do you mind if we take a 13    five-minute break?</p> <p>14    MR. DAVIS: Not at all. Off the record.</p> <p>15    THE VIDEOGRAPHER: We're going off the 16    record at 10:28 a.m.</p> <p>17    (Whereupon, a recess was taken from 18    10:28 a.m. to 10:42 a.m.)</p> <p>19    THE VIDEOGRAPHER: This is video 20    number 2 in the deposition of Binh Tran taken on 21    August 13th 2013. The time now is 10:42 a.m.</p> <p>22    BY MR. DAVIS:</p>	<p style="text-align: center;">76</p> <p>1     <b>A. Yeah. The first line of 6.</b></p> <p>2     Q. If you turn on Exhibit 7 to the second 3     page, for the first entry, you'll note that the 4     gross value and net value are both \$7200; is that 5     right?</p> <p>6     <b>A. That's correct.</b></p> <p>7     Q. And if you turn to page 3, there's a 8     column "Amount." And the entry there for the first 9     line is 6600; is that right?</p> <p>10    <b>A. That's correct.</b></p> <p>11    Q. And if you turn to the last -- or I'm 12    sorry. On the last column on that same page, 13    INV -- "INV Value," invoice value; is that right?</p> <p>14    <b>A. No. That's not invoice value.</b></p> <p>15    Q. What does that stand for?</p> <p>16    <b>A. That's inventory value.</b></p> <p>17    Q. Inventory value. And the entry for the 18    first line there also is 6600; is that right?</p> <p>19    <b>A. That's correct.</b></p> <p>20    Q. Are those dollars, \$6600?</p> <p>21    <b>A. Yes, dollars.</b></p> <p>22    Q. And what do the columns "Amount" and</p>
<p style="text-align: center;">75</p> <p>1     Q. Mr. Tran, you're looking at what's been 2     marked as Exhibit 7.</p> <p>3     <b>A. Mm-hmm.</b></p> <p>4     Q. And the same question that I had 5     regarding the previous exhibits. Do you know how 6     the actual Excel spreadsheet from which Exhibit 7 7     is excerpted was created?</p> <p>8     <b>A. It was created out of our ERP system and 9     it's a just a historical data pull of our POs.</b></p> <p>10    Q. Do you know how, if at all, the creation 11    of that file was different than the ones that were 12    excerpted in Exhibits 5 or 6?</p> <p>13    <b>A. I don't, no.</b></p> <p>14    Q. If you turn on Exhibit 7 -- if you look 15    at the first entry in the first column, "Purch 16    Doc" --</p> <p>17    <b>A. Yup.</b></p> <p>18    Q. -- is that a reference to a specific 19    purchase order that's listed there?</p> <p>20    <b>A. Yeah. That's a purchase order.</b></p> <p>21    Q. And is the first one listed in Exhibit 7 22    identical to the one that's listed in Exhibit 6?</p>	<p style="text-align: center;">77</p> <p>1     "Inventory Value" refer to?</p> <p>2     <b>A. It refers to how much -- what is the 3     value of our inventory on hand. So as the plant 4     uses materials and pulls from a certain purchase 5     order, that amount then becomes work in progress or 6     finished goods. And so it decrements off of 7     purchase orders the value of it a like amount that 8     was actually used.</b></p> <p>9     Q. So for that first line, if you turn to 10    page 2 --</p> <p>11    MR. CAMPBELL: Which exhibit, Evan?</p> <p>12    MR. DAVIS: I'm sorry. Of Exhibit 7.</p> <p>13    MR. CAMPBELL: Okay.</p> <p>14    BY MR. DAVIS:</p> <p>15    Q. It looks like there were 3000 pounds of 16    this dried egg product that were delivered to 17    General Mills in June of 2005. Is that accurate?</p> <p>18    <b>A. That's correct. Well -- I'm sorry. Not 19    delivered, but the purchase order was created in 20    6/6/2005.</b></p> <p>21    Q. And if you turn to page 3, there's a 22    column that says "DEL Date," D-E-L date. And the</p>

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<p style="text-align: right;">78</p> <p>1 entry is 6/20/2005. Do you see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Does that mean that this was delivered</p> <p>4 to General Mills on June 20, 2005?</p> <p>5 <b>A. That's correct.</b></p> <p>6 Q. And referring to the "Gross Val" and</p> <p>7 "Net Value" columns on page 2, did General Mills</p> <p>8 pay \$7200 for this dried egg product?</p> <p>9 <b>A. Yes, we did. So --</b></p> <p>10 Q. Now, the "Amount" column references</p> <p>11 \$6600.</p> <p>12 <b>A. Mm-hmm.</b></p> <p>13 Q. What does that mean?</p> <p>14 <b>A. That is the -- that is the amount on</b></p> <p>15 <b>hand.</b></p> <p>16 Q. Whenever this entry was made or whenever</p> <p>17 this spreadsheet was created?</p> <p>18 <b>A. Oh. At that given point in time.</b></p> <p>19 Q. At what given point in time?</p> <p>20 <b>A. Well, when the -- on the posting date.</b></p> <p>21 <b>So when we do -- when we do like an inventory</b></p> <p>22 <b>evaluation, it's on that posting date, and the</b></p>	<p style="text-align: right;">80</p> <p>1 <b>good yet.</b></p> <p>2 Q. Okay.</p> <p>3 (Tran Exhibit 8 was</p> <p>4 marked for</p> <p>5 identification.)</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. I'll show you what's been marked as</p> <p>8 Exhibit 8.</p> <p>9 MR. CAMPBELL: Evan, your comment about</p> <p>10 the highly confidential designation was off the</p> <p>11 record, I believe.</p> <p>12 MR. DAVIS: It was. Would you like to</p> <p>13 make a designation --</p> <p>14 MR. CAMPBELL: Why don't we just say on</p> <p>15 the record that as to all these exhibits, we're</p> <p>16 going to manually write in "highly confidential" to</p> <p>17 the ones that are appropriate, these purchase data</p> <p>18 exhibits. To which you've agreed.</p> <p>19 MR. DAVIS: Absolutely. There will be</p> <p>20 seven excerpts from the purchase data that General</p> <p>21 Mills produced.</p> <p>22 MR. CAMPBELL: Right.</p>
<p style="text-align: right;">79</p> <p>1 <b>value is based on that, of whatever is on</b></p> <p>2 <b>inventory.</b></p> <p>3 Q. And the inventory value is also \$6600?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And how is that -- how is the meaning of</p> <p>6 that column different than the meaning of the</p> <p>7 "Amount" column?</p> <p>8 <b>A. There is no difference.</b></p> <p>9 Q. Well, if you look at the second entry,</p> <p>10 for example, the amount in inventory value is zero.</p> <p>11 The amount in the "Amount" column is \$430.14. So</p> <p>12 what does that difference represent?</p> <p>13 <b>A. The difference is that it's in work in</b></p> <p>14 <b>progress then. And so the amount, if it is -- if</b></p> <p>15 <b>the "Inventory" column is zero, that means that</b></p> <p>16 <b>there is no inventory. But it could be in work in</b></p> <p>17 <b>progress. All right? But if we have inventory,</b></p> <p>18 <b>there is an inventory line that shows a value. And</b></p> <p>19 <b>an amount value, that just means that, you know,</b></p> <p>20 <b>it's in inventory, but that same amount value is</b></p> <p>21 <b>still somewhere in the system.</b></p> <p>22 <b>It hasn't been turned into a finished</b></p>	<p style="text-align: right;">81</p> <p>1 MR. DAVIS: Along with, I believe, the</p> <p>2 spreadsheet that was provided to me by e-mail.</p> <p>3 MR. CAMPBELL: Correct.</p> <p>4 MR. DAVIS: And I assume that you'll be</p> <p>5 producing that to the joint document repository as</p> <p>6 well?</p> <p>7 MR. CAMPBELL: Yes. I think we will.</p> <p>8 Is there a question pending about 8? I</p> <p>9 think not. I think I interrupted you.</p> <p>10 BY MR. DAVIS:</p> <p>11 Q. Mr. Tran, Exhibit 8 was created from a</p> <p>12 file "2012-07-13 Eggs Archived POS with Summarized</p> <p>13 Invoice Data." Do you have any knowledge of how</p> <p>14 that Excel spreadsheet was created?</p> <p>15 <b>A. Again, it looks like historical purchase</b></p> <p>16 <b>order data. I don't -- other than that, it being</b></p> <p>17 <b>pulled from our ERP system, I don't know how it was</b></p> <p>18 <b>created.</b></p> <p>19 Q. And so to the extent that there are</p> <p>20 differences in this file or different entries in</p> <p>21 this file from the other Excel spreadsheets that we</p> <p>22 have looked at, do you know why those differences</p>

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<p>82</p> <p>1 exist?</p> <p>2     <b>A. I don't know why.</b></p> <p>3     Q. On page 1 of Exhibit 8, do you see the</p> <p>4     column "PAYT Terms"?</p> <p>5     <b>A. Yup.</b></p> <p>6     Q. Does that mean payment terms?</p> <p>7     <b>A. It does.</b></p> <p>8     Q. And "NT10" would mean net 10 days?</p> <p>9     <b>A. It does.</b></p> <p>10    Q. Maybe about a third of the way down the</p> <p>11    column, do you see "2P10"?</p> <p>12    <b>A. Mm-hmm.</b></p> <p>13    Q. Do you know what that means?</p> <p>14    <b>A. I don't know what that means.</b></p> <p>15    MR. DAVIS: The phone may have been on</p> <p>16    mute for a period of time when we've been going</p> <p>17    over these exhibits. So we apologize in the room</p> <p>18    here.</p> <p>19    MR. CAMPBELL: You've been putting them</p> <p>20    all to sleep anyway, Evan.</p> <p>21    MR. DAVIS: This is the most exciting</p> <p>22    part.</p>	<p>84</p> <p>1 at?</p> <p>2     <b>A. It would.</b></p> <p>3     Q. And so this would show if General Mills</p> <p>4     actually received the egg products for which it had</p> <p>5     purchase orders?</p> <p>6     <b>A. It would.</b></p> <p>7     Q. Look at the first column -- I'm sorry --</p> <p>8     the first row. On the first page, "DELDT," does</p> <p>9     that mean delivery date?</p> <p>10    <b>A. It does.</b></p> <p>11    Q. And flipping to page 2, the purchase</p> <p>12    order quantity was 60. Do you see that?</p> <p>13    <b>A. I do.</b></p> <p>14    Q. And then it looks like delivery quantity</p> <p>15    is zero. Is that right?</p> <p>16    <b>A. I'm not sure what DLY stands for.</b></p> <p>17    Q. All right. The next column is -- does</p> <p>18    that mean received quantity?</p> <p>19    <b>A. Yeah.</b></p> <p>20    Q. And that's zero as well?</p> <p>21    <b>A. Yup.</b></p> <p>22    Q. Then the next column is "Open Quantity"?</p>
<p>83</p> <p>1     BY MR. DAVIS:</p> <p>2     Q. You can put Exhibit 8 aside. And I'll</p> <p>3     show you what's been marked as Exhibit 9.</p> <p>4         (Tran Exhibit 9 was</p> <p>5         marked for</p> <p>6         identification.)</p> <p>7     BY MR. DAVIS:</p> <p>8     Q. Exhibit 9 was created from a file titled</p> <p>9     "2012-07-12 Egg POS with Delivery Data ZINTO-Open</p> <p>10    POS." Do you know what Z-I-N-T-O or ZINTO means?</p> <p>11    <b>A. I don't know what that means.</b></p> <p>12    Q. Do you recognize the entries on</p> <p>13    Exhibit 9?</p> <p>14    <b>A. It looks like a receiving document.</b></p> <p>15    Q. What is a receiving document?</p> <p>16    <b>A. When our plants take in materials, they</b></p> <p>17    <b>scan in the materials and then that matches up with</b></p> <p>18    <b>the purchase order.</b></p> <p>19    Q. So on page 1, the "Order" column --</p> <p>20    <b>A. Mm-hmm.</b></p> <p>21    Q. -- would that reference the "Purch Doc"</p> <p>22    column on the previous spreadsheets that we looked</p>	<p>85</p> <p>1     <b>A. Mm-hmm.</b></p> <p>2     Q. And that says 60?</p> <p>3     <b>A. Yup.</b></p> <p>4     Q. So does that mean that General Mills did</p> <p>5     not actually receive any of the egg product for</p> <p>6     that purchase order?</p> <p>7     <b>A. That's correct.</b></p> <p>8     Q. And so what does the June 10th 2003</p> <p>9     delivery date refer to?</p> <p>10    <b>A. Looking at the amount here, it would</b></p> <p>11    <b>look like for that PO, we were short 60 pounds of</b></p> <p>12    <b>the original POS. So whatever was delivered in,</b></p> <p>13    <b>we're missing 60 pounds, which then gets put back</b></p> <p>14    <b>against the original purchase order. That just</b></p> <p>15    <b>shows that the original purchase order is not</b></p> <p>16    <b>fulfilled.</b></p> <p>17    Q. So on the previous spreadsheets that we</p> <p>18    looked at, would the purchase orders be adjusted to</p> <p>19    subtract 60 pounds or would those purchase orders</p> <p>20    include the 60 pounds that General Mills did not,</p> <p>21    in fact, receive?</p> <p>22    <b>A. The purchase order -- the purchase</b></p>

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<p>1       orders would either be amended or we would have the 2       supplier redeliver us 60 pounds.</p> <p>3       Q. If you look on Exhibit 3, I believe --</p> <p>4       A. <b>This one? Yup.</b></p> <p>5       Q. Do you see the beginning of this file 6       name is 2012-07-12?</p> <p>7       A. <b>Yeah.</b></p> <p>8       Q. Does that suggest to you that this file 9       was created on July 12th 2012?</p> <p>10      A. <b>I don't know. I don't know the naming 11       of the files and how it was arrived at.</b></p> <p>12      Q. So for this first purchase order listed 13       in the first row on Exhibit 9, if I wanted to find 14       out how much of that purchase order was actually 15       delivered to General Mills, how would I do that?</p> <p>16      A. <b>You would look it up in our ERP system. 17       So you would see -- you would see in the ERP system 18       what the purchase order was for, how much was 19       actually delivered or fulfilled on that purchase 20       order and then how much was paid.</b></p> <p>21      Q. And have any of the exhibits that I have 22       shown you thus far contained all of that</p>	<p>1       <b>invoice.</b></p> <p>2       Q. On page 1, the "Quantity" column, do you 3       know what that refers to?</p> <p>4       A. <b>I would believe it's a quantity that 5       could be ordered.</b></p> <p>6       Q. Do you know?</p> <p>7       A. <b>I don't know.</b></p> <p>8       Q. Are you just guessing?</p> <p>9       A. <b>I don't know. I'm guessing. I don't 10       know for a fact. I haven't seen a document similar 11       to this, so I don't know.</b></p> <p>12      Q. Do you actually know where this data 13       came from?</p> <p>14      A. <b>I would guess it's coming out of our ERP 15       system, too.</b></p> <p>16      Q. Are you guessing or do you know that?</p> <p>17      A. <b>I'm guessing.</b></p> <p>18      Q. Okay. The next column, "Quantity in 19       OPUN," do you know what that means?</p> <p>20      A. <b>I don't know what that means.</b></p> <p>21      Q. The next column is "Amount in LC." Do 22       you know what that means?</p>	
<p>1       information?</p> <p>2       A. <b>Yeah. These prior exhibits that you 3       have, like 8 shows it. 8. Yeah. So it shows the 4       delivered -- so the delivery date and then -- so, 5       for instance, in Exhibit 8, the first line, the 6       purchase order was 3000 pounds. It shows the 7       delivery date at 6/20 and the amount that was 8       delivered, which was 3000 pounds.</b></p> <p>9       Q. I'll show you what's been marked as 10       Exhibit 10.</p> <p>11       (Tran Exhibit 10 was 12       marked for 13       identification.)</p> <p>14      BY MR. DAVIS:</p> <p>15      Q. Do you recognize the data that's 16       included on Exhibit 10?</p> <p>17      A. <b>No. I'm not intimately familiar with 18       these headers.</b></p> <p>19      Q. Exhibit 10 is excerpted from a file 20       "2012-07-12 Egg POS with PO History Invoice Data."</p> <p>21       Does that mean anything to you?</p> <p>22      A. <b>It would be a historical pull of POs and</b></p>	<p>87</p> <p>1       <b>A. I don't.</b></p> <p>2       Q. The next column is "Amount." Do you 3       know what that's referring to?</p> <p>4       A. <b>I -- no, I don't.</b></p> <p>5       Q. The next column, "CRCY," does that refer 6       to currency?</p> <p>7       A. <b>Based on what I'm looking at, it looks 8       like it.</b></p> <p>9       Q. And would "CAD" refer to Canadian 10       dollars?</p> <p>11       MR. CAMPBELL: I object. If he knows, 12       he may answer, of course. But I don't think 13       there's any demonstration he knows.</p> <p>14       BY MR. DAVIS:</p> <p>15      Q. Have you ever seen the acronym CAD used 16       before when referring to amounts?</p> <p>17       A. <b>For currency?</b></p> <p>18       Q. Yes.</p> <p>19       A. <b>For currency, yes, I've seen that.</b></p> <p>20       Q. And has that referred to Canadian 21       dollars?</p> <p>22       A. <b>Normally, yes.</b></p>	<p>89</p>

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<p style="text-align: right;">90</p> <p>1 Q. Does General Mills ever transact for 2 purchasing egg products with Canadian dollars? 3     <b>A. In our Canadian operations, we do.</b> 4     Q. And that would be for the purchasing of 5 egg products that are shipped to General Mills in 6 Canada? 7     <b>A. That's correct.</b> 8     Q. Are they shipped from the United States? 9     <b>A. In some cases, we do have suppliers in 10 the U.S. shipping into Canada.</b> 11    Q. Does General Mills' ERP system include 12 purchases of egg products that were shipped to 13 General Mills in Canada? 14    <b>A. Yes, it does.</b> 15    Q. And would those purchases have been made 16 from suppliers in the United States? 17    <b>A. Yes.</b> 18    Q. Would they have been made from -- would 19 those purchases have been made from suppliers in 20 Canada? 21    <b>A. Yes. We would buy some eggs from Canada 22 too, from suppliers in Canada.</b></p>	<p style="text-align: right;">92</p> <p>1     <b>A. No, I don't.</b> 2     Q. The last column on the page, "GR/IR 3 Clearing Value in FC," do you know what that means? 4     <b>A. I don't.</b> 5     Q. You can put that aside. One more 6 follow-up question for you on Exhibit 2. I believe 7 you testified that all of the amounts included on 8 Exhibit 2 were for purchases of egg products made 9 by General Mills that were shipped into the United 10 States; is that correct? 11    <b>A. That's correct.</b> 12    Q. How did you limit the data that was 13 inputted in Exhibit 2 to ensure that it did not 14 include any purchases of egg products in Canada? 15    <b>A. Because our ERP system will segregate 16 them. Our Canadian operations is in a different -- 17 in a different unit, in a different division. So 18 we sort it by the U.S. businesses.</b> 19    Q. Does the U.S. business purchase all of 20 its egg products within the United States? 21    <b>A. Yes.</b> 22    Q. And the Canadian business purchase all</p>
<p style="text-align: right;">91</p> <p>1     Q. And the ERP system would include all of 2 those? 3     <b>A. It would.</b> 4     Q. Would General Mills ever pay for a 5 shipment of egg products to be delivered in the 6 United States using Canadian dollars? 7     <b>A. No.</b> 8     Q. So any reference in General Mills' ERP 9 system to purchase orders quoting amounts in 10 Canadian dollars would be for egg products that 11 were being shipped to Canada; is that correct? 12    <b>A. It would be for egg products that is 13 being used in Canada from a Canadian supplier.</b> 14    Q. Both the supplier would be located in 15 Canada and -- 16    <b>A. The production in Canada and our use in 17 Canada.</b> 18    Q. If you would turn to page 2, the column 19 "Invoice Value," do you know what that means? 20    <b>A. No. I'm not sure how that's derived.</b> 21    Q. Two down from that, "INV Value in FC," 22 do you know what that means?</p>	<p style="text-align: right;">93</p> <p>1     of its egg products in Canada? 2     <b>A. No. It will purchase from Canadian 3 suppliers and some from U.S. suppliers. But the 4 goods received and the purchase orders can be 5 segregated -- have to be segregated by our U.S. 6 business and our international business. Our 7 Canadian businesses are in a different division.</b> 8     Q. But all of those purchase orders are 9 contained in one ERP system? 10    <b>A. That's right.</b> 11    Q. And when you took the data from that 12 system to make the spreadsheet labeled as 13 Exhibit 2 -- 14    <b>A. Mm-hmm.</b> 15    Q. -- you could separate out which business 16 units, purchase orders, you were pulling from? 17    <b>A. That's correct.</b> 18    Q. And so what is the business unit or 19 business units from which you pulled data to create 20 Exhibit 2? 21    <b>A. Our U.S. retail business and our 22 Canadian business. So those are the two</b></p>

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<p style="text-align: right;">94</p> <p>1       <b>businesses. But for this exhibit, it's our U.S. 2       business.</b></p> <p>3       Q. You can put that aside. If General 4       Mills received -- I believe you testified General 5       Mills received credits from suppliers of egg 6       products; is that right?</p> <p>7       A. <b>For quality issues.</b></p> <p>8       Q. Are those credits inputted into General 9       Mills' ERP system?</p> <p>10      A. <b>Yes, they would be.</b></p> <p>11      Q. And would those credits be reflected on 12       any of the files that we've looked at so far?</p> <p>13      A. <b>It's dependent on -- it's dependent on 14       if it was a reversed invoice. So with what we've 15       looked at, no. None of those credits -- they were 16       not a factor in any of these.</b></p> <p>17      Q. And if you turn to Exhibit 3, the files 18       that are listed there, do you know whether those 19       files include credits?</p> <p>20      A. <b>There was no -- I couldn't see any 21       credits in these files because I don't -- it didn't 22       look like there was any quality issues out of them.</b></p>	<p style="text-align: right;">96</p> <p>1       General Mills purchasing off of -- paying a price 2       that was based in part on what you call Urner Barry 3       pricing; is that right?</p> <p>4       A. <b>That's correct.</b></p> <p>5       Q. What is Urner Barry pricing?</p> <p>6       A. <b>Urner Barry is a trade publication that 7       does market research and depicts prices for meat 8       and egg products.</b></p> <p>9       Q. And do you understand the phrase or have 10       you ever heard the phrase "market-based pricing"?</p> <p>11      A. <b>Yes.</b></p> <p>12      Q. And what do you understand that to mean?</p> <p>13      A. <b>Market-based pricing is prices that are 14       tied to some type of index or some type of recorded 15       mechanism that is a third party.</b></p> <p>16      Q. And insofar as egg products are 17       concerned, is that market index Urner Barry?</p> <p>18      A. <b>That's correct.</b></p> <p>19      Q. Do you know what's meant by the breaking 20       stock price?</p> <p>21      A. <b>On Urner Barry?</b></p> <p>22      Q. Yes.</p>
<p style="text-align: right;">95</p> <p>1       Q. But you don't know how those files were 2       actually created; is that right?</p> <p>3       A. <b>No.</b></p> <p>4       Q. So you don't know whether or not any 5       credits that General Mills received would be 6       contained in those Excel files that were produced 7       to the defendants in this litigation; is that 8       correct?</p> <p>9       A. <b>Other than what are in these files.</b></p> <p>10      Q. That's correct?</p> <p>11      A. <b>Correct.</b></p> <p>12      Q. Under what pricing terms has General 13       Mills purchased egg products from -- excuse me -- 14       starting in 1999?</p> <p>15      MR. CAMPBELL: I'm sorry. That's just 16       too ambiguous to me. Could you --</p> <p>17      BY MR. DAVIS:</p> <p>18      Q. Do you understand what I mean by 19       "pricing terms"?</p> <p>20      A. <b>No. I don't understand what you mean by 21       "pricing terms." Could you clarify?</b></p> <p>22      Q. Sure. I think you talked earlier about</p>	<p style="text-align: right;">97</p> <p>1       A. <b>Yes.</b></p> <p>2       Q. What is that?</p> <p>3       A. <b>The breaking stock price is the price of 4       the liquid -- the price of the liquid when the 5       producers take a shell egg and just, you know, 6       break it -- break it apart and take the liquid. So 7       it's the liquid component of the -- the price for 8       the liquid component.</b></p> <p>9       Q. And when General Mills paid for egg 10       products using market-based pricing, was the Urner 11       Barry component of that market-based pricing the 12       breaking stock price?</p> <p>13      A. <b>No. It was not.</b></p> <p>14      Q. What was it?</p> <p>15      A. <b>It was the Urner Barry listed prices for 16       dried products, for our dried products. So I 17       should clarify that. So it was for the dried 18       products.</b></p> <p>19      Q. So specifically what Urner Barry prices 20       were incorporated into the market-based pricing 21       that General Mills paid?</p> <p>22      A. <b>We would reference dried -- either dried</b></p>

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<p style="text-align: center;">98</p> <p>1   <b>whole, yolk or white, based on Urner Barry, and</b>      2   <b>that would be the foundation for our prices.</b></p> <p>3   Q. Did General Mills also purchase liquid?</p> <p>4   A. Yes, we did.</p> <p>5   Q. And did General Mills purchase liquid on</p> <p>6   market-based pricing?</p> <p>7   A. Yes, we did.</p> <p>8   Q. And what Urner Barry price was used for</p> <p>9   that pricing?</p> <p>10   A. It would be the liquid whole or white or</p> <p>11   yolk.</p> <p>12   Q. And is that different than the breaking</p> <p>13   stock price?</p> <p>14   A. It could be, yes.</p> <p>15   Q. How so?</p> <p>16   A. How could it be different?</p> <p>17   Q. How were the numbers derived</p> <p>18   differently?</p> <p>19   A. Well, I'm not quite sure how Urner Barry</p> <p>20   necessarily gets to their prices, so I couldn't</p> <p>21   answer that.</p> <p>22   Q. What's different about the product, the</p>	<p style="text-align: center;">100</p> <p>1   change?</p> <p>2   A. Urner Barry quotes could change really</p> <p>3   daily. Yeah. My understanding is that it's daily.</p> <p>4   Our prices are generally an average of whatever --</p> <p>5   the average of the prior month's prices.</p> <p>6   Q. And so when General Mills purchased off</p> <p>7   of market-based pricing --</p> <p>8   A. Mm-hmm.</p> <p>9   Q. -- that price paid by General Mills was</p> <p>10   calculated monthly?</p> <p>11   A. Yes.</p> <p>12   Q. Did General Mills ever enter into</p> <p>13   contracts for fixed prices based on market pricing</p> <p>14   that's been more than a month?</p> <p>15   A. No. Our suppliers -- our suppliers</p> <p>16   would generally want monthly price movements.</p> <p>17   Q. And I believe you said the components of</p> <p>18   market pricing were a market quote, in this case</p> <p>19   Urner Barry; is that right?</p> <p>20   A. That's right.</p> <p>21   Q. There's a freight cost; is that right?</p> <p>22   A. That's right.</p>
<p style="text-align: center;">99</p> <p>1   liquid whole product that you referenced, from the</p> <p>2   breaking stock product?</p> <p>3   A. From a specification standpoint? I</p> <p>4   guess can you --</p> <p>5   Q. You say Urner Barry -- in your view,</p> <p>6   Urner Barry has a separate quote for breaking --</p> <p>7   A. Mm-hmm.</p> <p>8   Q. -- stock than it does for whole liquid.</p> <p>9   A. Yes.</p> <p>10   Q. And what are the differences between</p> <p>11   those two products?</p> <p>12   A. I'm not sure because I -- we didn't</p> <p>13   really look at or reference breaking stock. We</p> <p>14   would reference liquid wholes, the liquid component</p> <p>15   off of Urner Barry or the dried prices.</p> <p>16   Q. Did General Mills ever purchase off of</p> <p>17   the graded egg quotes from Urner Barry?</p> <p>18   A. No. We don't.</p> <p>19   Q. And those are for shell eggs; is that</p> <p>20   right?</p> <p>21   A. Yes.</p> <p>22   Q. How often does the Urner Barry quote</p>	<p style="text-align: center;">101</p> <p>1   Q. There's a packaging cost?</p> <p>2   A. That's right.</p> <p>3   Q. Are there any other components to the</p> <p>4   market-based pricing?</p> <p>5   A. Well, when you're saying market-based</p> <p>6   pricing, my definition of market-based pricing is</p> <p>7   the Urner Barry price. When you add on packaging,</p> <p>8   then that becomes a delivered price for me, in my</p> <p>9   terminology.</p> <p>10   Q. So using your terminology, are there any</p> <p>11   other components for the delivered price?</p> <p>12   A. There could be if we were adding things</p> <p>13   like sugar into the eggs that we wanted our</p> <p>14   suppliers to add into it. So there might be a</p> <p>15   conversion component to it also.</p> <p>16   Q. Adding sugar would be an example?</p> <p>17   A. Yeah.</p> <p>18   Q. How about any other conversion costs?</p> <p>19   A. No. No. Only if there was something</p> <p>20   that is above and beyond the stated Urner Barry --</p> <p>21   the Urner Barry definition of what the product is.</p> <p>22   Q. What do you mean by that?</p>

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<p>1 A. So if Urner Barry is following dried  2 whole eggs, just dried whole eggs with -- and  3 that's it, then that's the base. Anytime we add  4 anything above and beyond just a base dried whole  5 egg, then there's cost to it.</p> <p>6 Q. And so you gave sugar as an example of  7 something else that General Mills would add; is  8 that right?</p> <p>9 A. Yes.</p> <p>10 Q. Is there anything else other than sugar  11 that General Mills adds to that egg?</p> <p>12 A. No.</p> <p>13 Q. How frequently would General Mills  14 negotiate the terms for its purchasing?</p> <p>15 A. What do you mean by "terms"? Is  16 there --</p> <p>17 Q. The price term.</p> <p>18 A. The price term? Okay. The price terms  19 generally would get negotiated monthly. And it's  20 because the suppliers would want prices to change  21 based on Urner Barry monthly. So we would have to  22 renegotiate each of those components every month.</p>	<p>1 time frame, our valid windows too short, then the  2 purchase order just gets kicked out and becomes  3 null and void.</p> <p>4 So generally how we will try to  5 structure these things is line up the volume with  6 what our estimated usage is going to be. And that  7 stays within the month. But we have our valid  8 windows a little bit longer so that if there's an  9 extra week or a day that is beyond that month, the  10 purchase order just doesn't get kicked out.</p> <p>11 Q. But this isn't a week or a day longer,  12 this is a four-month window, right?</p> <p>13 A. Right.</p> <p>14 Q. So, for example, the first line for egg  15 white dry angel --</p> <p>16 A. Mm-hmm.</p> <p>17 Q. -- General Mills paid \$2.75 per pound  18 for its purchase to Michael Foods; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And that pricing term was in effect from  21 May 1st 2006 through August 31st 2006; is that  22 right?</p>
<p>1 Q. I show you what's been marked as  2 Exhibit 11.  3 (Tran Exhibit 11 was  4 marked for  5 identification.)</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. Do you recognize Exhibit 11?</p> <p>8 A. Yes.</p> <p>9 Q. What is this document?</p> <p>10 A. That's a purchase order.</p> <p>11 Q. And it's a purchase order from Michael  12 Foods Wallbaum; is that right?</p> <p>13 A. That's right.</p> <p>14 Q. Now, this says "Valid from May 1, 2006,"  15 and "Valid to 8/31/2006"; is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. So does that suggest that these pricing  18 terms were in effect for the duration of that  19 period?</p> <p>20 A. Yes. Dependent on the volume. So  21 there's a volume component to it also. So the  22 prices -- because of our ERP system, if we have our</p>	<p>103</p> <p>105</p> <p>1 A. Yes. Yes. That pricing window would --  2 that would be valid.</p> <p>3 Q. So the price that General Mills paid for  4 that product did not fluctuate over this -- during  5 this four-month period; is that right?</p> <p>6 A. Yes, depending on if we still had volume  7 left on the contract.</p> <p>8 Q. Right. General Mills could draw down on  9 the volume that it had on this purchase order at  10 any point during those four months and pay an  11 identical price; is that right?</p> <p>12 A. That's correct.</p> <p>13 Q. And that's true for all of the five  14 products listed on this purchase order; is that  15 right?</p> <p>16 A. That's correct.</p> <p>17 Q. So even if the Urner Barry price changed  18 between -- well, let me ask you this. The purchase  19 order up at the top is dated April 26th 2006. Do  20 you see that?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. When would the Urner Barry quote upon --</p>

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<p style="text-align: center;">106</p> <p>1 was this based on an Urner Barry quote? Was this 2 purchase order?</p> <p>3     <b>A. Yeah.</b></p> <p>4     Q. How do you know that?</p> <p>5     <b>A. Because that's the way that we would be 6 do our negotiations and our pricing with Michael 7 Foods. That's just the structure that was in 8 place.</b></p> <p>9     Q. So all of General Mills' purchases of 10 egg products from Michael Foods were made on a 11 market basis?</p> <p>12     <b>A. That's right.</b></p> <p>13     Q. And when would the Urner Barry quote 14 that was used for this purchase order be taken?</p> <p>15     <b>A. It would be the quoted price on, you 16 know -- there would be like a 30-day lag. So if we 17 created this contract at the end of April, it would 18 be the first of April.</b></p> <p>19     Q. And if that Urner Barry quote changed as 20 of August 29th 2006, the price that General Mills 21 paid for any egg products purchased under this 22 purchase order would not change even though the</p>	<p style="text-align: center;">108</p> <p>1     <b>A. Yes.</b></p> <p>2     Q. But General Mills had the option of 3 purchasing that through the end of August as long 4 as they didn't exceed this total quantity; is that 5 right?</p> <p>6     <b>A. That's right.</b></p> <p>7     Q. Did General Mills ever determine the 8 timing of its purchases of egg products under these 9 purchase orders based on whether it thought pricing 10 for egg products would go up or down?</p> <p>11     <b>A. No. No. We would generally -- you 12 know, not on a month-to-month basis, not in that 13 short a period. Our volume would be pretty 14 consistent and we would just break it up.</b></p> <p>15     Q. If you had volume left over that you 16 hadn't purchased by the end of August, you would 17 have a new purchase order valid from September 1st 18 in this case; is that right?</p> <p>19     <b>A. Yes.</b></p> <p>20     Q. And you would know what the Urner Barry 21 price upon which that was going to be based because 22 it would be based on something probably August 1st;</p>
<p style="text-align: center;">107</p> <p>1 Urner Barry quote had; is that right?</p> <p>2     <b>A. For that time period, correct. But the 3 change in prices would be reflected in the next 4 contract.</b></p> <p>5     Q. When the Urner Barry price -- a new 6 Urner Barry price was used?</p> <p>7     <b>A. That's right.</b></p> <p>8     Q. But it wasn't necessarily monthly; is 9 that right?</p> <p>10     <b>A. Well, that's where the volume piece 11 comes into play. So when we run out of this 12 volume, which generally is going to be on a 13 month-to-month basis, once that volume is done, we 14 don't have any more volume to pull from, we have to 15 renegotiate. So we will line up our volume for a 16 month. But we will keep the valid period a little 17 bit longer.</b></p> <p>18     Q. So it was General Mills' expectation 19 that it would purchase 140,000 pounds of egg white 20 dry angel in the month of May?</p> <p>21     <b>A. Mm-hmm.</b></p> <p>22     Q. Yes?</p>	<p style="text-align: center;">109</p> <p>1 is that right?</p> <p>2     <b>A. That's right.</b></p> <p>3     Q. She so at the end of August, you could 4 look at any volume that you had remaining and 5 determine whether it was cheaper to buy the 6 remaining volume at the end of August or wait until 7 a new purchase order was signed at the end of -- 8 valid as of September 1st; is that right?</p> <p>9     <b>A. That's correct.</b></p> <p>10     Q. And in those instances, would General 11 Mills purchase whichever was prospected to be 12 cheaper?</p> <p>13     <b>A. Well, we would purchase whatever is left 14 on remaining contracts. You know, so if this 15 purchase order happened to be cheaper, we would use 16 up this contract. But if prices were actually 17 higher versus the following month, we would still 18 use up that contract and pay the higher prices.</b></p> <p>19     Q. Why?</p> <p>20     <b>A. Why? Because we make good on our 21 contracts.</b></p> <p>22     Q. So this is a commitment to pay -- to</p>

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<p>110</p> <p>1 purchase the total quantity here?</p> <p>2 A. <b>That's right.</b></p> <p>3 Q. Okay.</p> <p>4 A. <b>Yeah.</b></p> <p>5 Q. If you would turn to page 3 --</p> <p>6 A. <b>Of the same exhibit?</b></p> <p>7 Q. Yes.</p> <p>8 A. <b>Yes.</b></p> <p>9 Q. So you'll see, for example, the last row 10 for "egg yolk DR free FLWENZ" and it goes on and 11 gets cut off, the overall result number is a little 12 over 65,000 pounds. Do you see that?</p> <p>13 A. <b>Mm-hmm.</b></p> <p>14 Q. And if you turn back to page 1, there's 15 a quantity listed of 70,000 pounds for that same 16 product. Do you see that?</p> <p>17 A. <b>Mm-hmm.</b></p> <p>18 Q. What does that difference represent to 19 you?</p> <p>20 A. <b>That difference could be, you know, we 21 order slightly more for waste purposes in our 22 manufacturing. So, you know, for us to hit a</b></p>	<p>112</p> <p>1 month, right? It's actually spread out across all 2 four months?</p> <p>3 A. <b>Well, based on the forecasts at this 4 time.</b></p> <p>5 Q. The expectation was not to purchase all 6 of the 70,000 pounds in the first month, right? 7 The expectation was to purchase a little over a 8 third of that in the first month?</p> <p>9 A. <b>Yeah.</b></p> <p>10 Q. And that's actually pretty consistent 11 for most of these products, right? The first 12 product, egg white dry angel, there's actually -- 13 the biggest number is in the second month of the 14 contract; is that right?</p> <p>15 A. <b>Mm-hmm.</b></p> <p>16 Q. So does that change your opinion at all 17 about how General Mills would negotiate these 18 volume amounts?</p> <p>19 A. <b>It depends on the product. Right? So 20 some of our smaller moving products, right, we -- 21 because our volume would fluctuate or not be as 22 static or predictable, we might end up going a few</b></p>
<p>111</p> <p>1 finished good volume, we might need a little bit 2 more product because there is stuff that falls on 3 the floor or something like that.</p> <p>4 Q. So on page 3, the 65,000 number, what 5 does that signify?</p> <p>6 A. <b>That is the estimated volume now for 7 that -- whatever that time period that they're 8 pulling for that product.</b></p> <p>9 Q. Well, if you go back through the columns 10 that precede that --</p> <p>11 A. <b>Mm-hmm.</b></p> <p>12 Q. -- it looks like there's purchasing for 13 May, and then June, and then July, and then August, 14 right?</p> <p>15 A. <b>Yup.</b></p> <p>16 Q. So are those the amounts that were 17 actually purchased by General Mills in each of 18 those four months?</p> <p>19 A. <b>When this was pulled, that's probably a 20 forecast.</b></p> <p>21 Q. Okay. So it's not really the case, 22 then, that they purchase all of it in that first</p>	<p>113</p> <p>1 months. But our heavier volume items would 2 generally be month to month.</p> <p>3 Q. Do you know how the Urner Barry quotes 4 are derived?</p> <p>5 A. <b>No, I don't. I don't have insight as to 6 how Urner Barry comes up with their prices.</b></p> <p>7 Q. Do you know what factors Urner Barry 8 looks at to determine its quote?</p> <p>9 A. <b>When you say factors, what factors -- 10 could you give some examples?</b></p> <p>11 Q. What Urner -- what numbers or what data 12 points Urner Barry incorporates to determine its 13 price quote.</p> <p>14 A. <b>No. I don't know how they arrive at 15 their price quotes or how they build it or their 16 models that they use.</b></p> <p>17 Q. Do you know if demand for eggs or egg 18 products is a factor that they rely on?</p> <p>19 A. <b>I would only be speculating in how they 20 arrive at that. You know, I guess Economics 101 21 would say supply and demand, you know, impacts 22 prices.</b></p>

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<p style="text-align: center;">114</p> <p>1 Q. And so beyond Economics 101, does 2 General Mills have any knowledge about the role of 3 supply or demand in Urner Barry pricing?</p> <p>4     <b>A. The role of supplier --</b></p> <p>5         Q. Supply or demand, as you just said.</p> <p>6     <b>A. Oh, supply or demand? Do we have an 7 understanding of that in eggs?</b></p> <p>8         Q. A knowledge of how Urner Barry, if at 9 all, uses those data points.</p> <p>10      <b>A. Okay. I don't know how Urner Barry uses 11 those components to arrive at their prices. But 12 General Mills will have a basic understanding of 13 how supply and demand does impact prices.</b></p> <p>14         Q. As quoted by Urner Barry?</p> <p>15      <b>A. That's --</b></p> <p>16         Q. Well, you say "impact prices."</p> <p>17      <b>A. Yeah.</b></p> <p>18         Q. Do you mean the price that General Mills 19 pays? What do you mean by "prices"?</p> <p>20      <b>A. Market prices.</b></p> <p>21         Q. And market prices as you've defined it 22 is dependent upon a price quoted by Urner Barry; is</p>	<p style="text-align: center;">116</p> <p>1         <b>A. No. Not a detailed knowledge sense,</b> 2 because we don't know how Urner Barry builds their 3 prices and how they quote those prices. Urner 4 Barry is not a transparent market like you would 5 find in the Chicago Board of Trade or the New York 6 Stock Exchange.</p> <p>7         Q. Now, we talked about market-based 8 pricing. Are there other ways that the price paid 9 by General Mills can be negotiated?</p> <p>10      <b>A. What you mean "other ways"?</b></p> <p>11         Q. Well, market-based pricing, as you 12 defined it, incorporates an Urner Barry quote; is 13 that right?</p> <p>14      <b>A. That's correct.</b></p> <p>15         Q. Has General Mills ever paid a price for 16 eggs or egg products that does not involve an Urner 17 Barry quote?</p> <p>18      <b>A. Yes, we have.</b></p> <p>19         Q. And what do you refer to that type of 20 pricing as?</p> <p>21      <b>A. We would use things like cost-plus 22 models, grain-based models to purchase our eggs</b></p>
<p style="text-align: center;">115</p> <p>1         that right?</p> <p>2      <b>A. That's right.</b></p> <p>3         Q. So does supply or demand affect the 4 freight cost that General Mills pays?</p> <p>5      <b>A. Supply and demand of freight does.</b></p> <p>6         Q. Supply and demand of eggs or egg 7 products?</p> <p>8      <b>A. Affect freight?</b></p> <p>9         Q. Yes.</p> <p>10     <b>A. Not particularly eggs themselves, no.</b></p> <p>11         Q. Does the supply or demand for eggs 12 affect transportation costs -- or I'm sorry, 13 packaging costs?</p> <p>14     <b>A. No, it does not.</b></p> <p>15         Q. Does the supply or demand for eggs 16 affect the Urner Barry quote?</p> <p>17     <b>A. Yeah, it does.</b></p> <p>18         Q. And does General Mills have an 19 understanding as to how it affects the Urner Barry 20 quote?</p> <p>21     <b>A. A general sense, yes.</b></p> <p>22         Q. In any knowledgeable sense?</p>	<p style="text-align: center;">117</p> <p>1         <b>also.</b></p> <p>2         Q. And has General Mills ever purchased 3 eggs or egg products using cost-plus or grain-based 4 pricing models?</p> <p>5      <b>A. Yes. We have.</b></p> <p>6         Q. When has that occurred?</p> <p>7      <b>A. We started that in about 2008.</b></p> <p>8         Q. And tell me about that pricing model. 9 What terms are used to arrive at the price that 10 General Mills ultimately pays?</p> <p>11     <b>A. We would use grain, namely corn and 12 soybean meal, as a basis for our prices and there 13 would be a formula that would then convert that 14 into a egg price.</b></p> <p>15         Q. So the price paid for egg products would 16 vary depending on the price of corn or soybean; is 17 that right?</p> <p>18     <b>A. That's correct. Yup.</b></p> <p>19         Q. Are there any other components that 20 would go into the price that's paid by General 21 Mills?</p> <p>22     <b>A. Into the dried component, there would</b></p>

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<p style="text-align: center;">118</p> <p>1   be. There would be a natural gas component for the 2   drying cost. 3   Q. Anything else? 4   A. No. 5   Q. How often is that pricing negotiated? 6   A. It's actually -- it's never negotiated. 7   <b>So the conversion -- it's a cost plus. So the</b> 8   <b>margin is we have full transparency into the margin</b> 9   <b>and then the prices would move.</b> 10   Q. How often is the price paid 11   recalculated? Does the price of corn or soybean 12   meal change daily? 13   A. Yes, it does. 14   Q. And does the price actually paid by 15   General Mills change daily? 16   A. No, it does not. 17   Q. How often does the price paid by General 18   Mills change? 19   A. It would depend on how far our hedge 20   positions are. So when we were able to go to a 21   corn and soy meal model, we could actively hedge 22   with derivatives, you know, the underlying cost of</p>	<p style="text-align: center;">120</p> <p>1   doesn't happen very often. Usually it's the buyer 2   that has the decision making. The only time that 3   the manager would veto or step in would be if there 4   is ethical issues that the buyer has, you know, in 5   a decision. 6   Q. And who does the manager report to? 7   A. They would report to a sourcing 8   director. 9   Q. Does the sourcing director ever have any 10   input into egg procurement decisions? 11   A. Again, from a decision-making 12   standpoint, only if there needed to be, because 13   there was, you know, issues, either ethical issues 14   or, you know, the buyer's decisions put the company 15   at risk. 16   Q. So generally speaking, the buyer makes 17   these decisions, right? 18   A. That's right. 19   Q. And the buyer's manager isn't sitting 20   there monthly looking over the numbers and figuring 21   out if this decision was ideal or could be a little 22   bit better?</p>
<p style="text-align: center;">119</p> <p>1   grains. And so depending on where our hedges were, 2   it could range between a month to six months to a 3   year. 4   Q. Okay. 5   A. And that was at our discretion. 6   Q. Who decides -- or who makes decisions 7   related to the procurement of egg products at 8   General Mills? 9   A. The buyer would. 10   Q. And you served as the buyer for about 11   six years; is that right? 12   A. On eggs, it was about three directly. 13   Q. And who does the buyer for eggs report 14   to? 15   A. The buyer would report to either -- 16   generally, it would be a manager. A sourcing 17   manager. 18   Q. Does that sourcing manager have ultimate 19   decision-making power related to the procurement of 20   eggs? 21   A. They have accountability for it. So 22   they could veto, you know, a decision. But that</p>	<p style="text-align: center;">121</p> <p>1   A. No, they're not. 2   Q. That's up to the buyer? 3   A. That's right. 4   Q. Okay. And when did you serve as the 5   buyer for eggs? 6   A. 2008. Yeah. Late 2007, 2008, to 2010 7   approximately. 8   Q. And who replaced you in that role? 9   A. Derick McCuskey. 10   Q. Is he the buyer today? 11   A. No. John Tiedeman is the buyer today. 12   Q. Was there anyone between those two? 13   A. No. 14   Q. Who was the buyer prior to you? 15   A. Tiffany Mercuri. 16   Q. When did she serve as the buyer for 17   eggs? 18   A. I would say it's like 2004 or -- late 19   2004 maybe. 20   Q. Who preceded her as the buyer for eggs? 21   A. Paula West. 22   Q. And when did she serve in that role?</p>

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<p style="text-align: center;">122</p> <p>1       <b>A. I believe she was around 2003.</b></p> <p>2       Q. Just for about a year?</p> <p>3       <b>A. Yeah, approximately.</b></p> <p>4       Q. Who preceded her?</p> <p>5       <b>A. Scott Wolf.</b></p> <p>6       Q. And when did he serve?</p> <p>7       <b>A. I don't know his total time.</b></p> <p>8       Q. Did it go back to at least 1999?</p> <p>9       <b>A. Yeah, probably.</b></p> <p>10      Q. Do you know who came before him?</p> <p>11      <b>A. No, I don't.</b></p> <p>12      Q. So the buyer for eggs is responsible for more than just negotiating the price that's paid, right?</p> <p>13      <b>A. Mm-hmm.</b></p> <p>14      Q. What else is the buyer responsible for?</p> <p>15      <b>A. They're responsible for relationship management, relationship management of the supply base. And then certainly project management of any initiatives like cost savings, you know, innovation types of things, you know, that are opportunities there.</b></p>	<p style="text-align: center;">124</p> <p>1       <b>A. Yeah, before her, I'm not sure.</b></p> <p>2       Q. So what's interaction between the buyer and the quality and regulatory manager in deciding on egg procurement issues?</p> <p>3       <b>A. The quality and regulatory group determines the fit of the supplier if they're able to meet the guidelines that is set out in our specifications. Right?</b></p> <p>4       So they'll do audits of supplier facilities and ensure, you know, good manufacturing processes and things. Once that -- once we get the green light and approval from quality and regulatory, then purchasing has the ability to buy from that person. So purchasing is responsible for the relationship and the terms and conditions of purchasing and the prices that go along with it. Quality is responsible for the fit, the supplier fit, and their quality standards.</p> <p>5       Q. Are there any other departments or people that need to sort of approve of an egg procurement decision?</p> <p>6       <b>A. R&amp;D might get involved if it's a new</b></p>
<p style="text-align: center;">123</p> <p>1       Q. How about quality?</p> <p>2       <b>A. That would be a part of their function, but they are not solely responsible for it. Our quality and regulatory group would be.</b></p> <p>3       Q. And is there a specific position in the quality and regulatory group that's responsible for eggs?</p> <p>4       <b>A. Yes.</b></p> <p>5       Q. What's that job title?</p> <p>6       <b>A. It would be a quality manager.</b></p> <p>7       Q. Specific to eggs?</p> <p>8       <b>A. Yes.</b></p> <p>9       Q. And can you tell me who those people have been from 1999?</p> <p>10      <b>A. Karen Rager was during my time. I believe -- I'm not quite sure. I think it is Jen Adams currently. And then before Karen Rager, it would have been Mary Gillespie.</b></p> <p>11      Q. You think Mary Gillespie served in the earlier part of the 2000s?</p> <p>12      <b>A. I think so.</b></p> <p>13      Q. Somewhere around there?</p>	<p style="text-align: center;">125</p> <p>1       product. But generally we'll use off-the-shelf spec items that R&amp;D won't really get involved.</p> <p>2       Q. Anyone else?</p> <p>3       <b>A. No. That's it.</b></p> <p>4       MR. DAVIS: Why don't we take a short five-minute break.</p> <p>5       MR. CAMPBELL: Sure.</p> <p>6       THE VIDEOGRAPHER: We're going off the record at 11:50 a.m.</p> <p>7       (Whereupon, a recess was taken from 11:50 a.m. to 11:59 a.m.)</p> <p>8       THE VIDEOGRAPHER: This is video number 3 from the deposition of Binh Tran taken on August 13th 2013. The time now is 11:59 a.m.</p> <p>9       (Tran Exhibit 12 was marked for identification.)</p> <p>10      BY MR. DAVIS:</p> <p>11      Q. Mr. Tran, you're being handed what's been marked as Exhibit 12. I'm going to ask you a question specifically about page -- two pages. If you look on the bottom right-hand corner, you'll</p>

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<p style="text-align: center;">126</p> <p>1 see what are called Bates numbers, where it says 2 GMI and then it's got a string of numbers. 3     <b>A. Yup.</b> 4     Q. So I'll ask you a question about the 5 page -- the last digit, it ends in 22 and 25. 6     <b>A. I think this is 22. It doesn't have</b> 7 <b>anything.</b> 8     Q. Is your copy cut off? It says "current 9 egg-buying strategy" at the top. 10    <b>A. Yes.</b> 11    Q. I apologize if it was cut off in the 12 copying process. This page refers to the current 13 egg-buying strategy of General Mills as the 14 seasonal model. Do you see that? 15    <b>A. Mm-hmm.</b> 16    Q. And it says "All prices are based off of 17 Urner Barry UB breaking stock price." Do you see 18 that? 19    <b>A. Mm-hmm.</b> 20    Q. Yes? 21    <b>A. Yes.</b> 22    Q. I'm sorry. When you say uh-huh, it can</p>	<p style="text-align: center;">128</p> <p>1 it lists, "The seasonality of the market drives 2 supplies up and prices down in summer months." Do 3 you see that? 4     <b>A. Yup.</b> 5     Q. Is that accurate? 6     <b>A. That's accurate.</b> 7     Q. And "the ability to store lower-priced 8 eggs for later use." Do you see that? 9     <b>A. Mm-hmm.</b> 10    Q. Yes? 11    <b>A. Yes.</b> 12    Q. Are those advantages of market-based 13 pricing? 14    <b>A. Those are buying strategies based on</b> 15 <b>seasonal patterns that show up in markets in the</b> 16 <b>market base.</b> 17    Q. And those are advantages that were 18 available to General Mills under a market-based 19 pricing that would not have been available under a 20 cost-plus pricing; is that right? 21    <b>A. No. That's incorrect. You could still</b> 22 <b>do some of these same strategies if it is a</b></p>
<p style="text-align: center;">127</p> <p>1 be very hard to transcribe. 2     <b>A. Yup.</b> 3     Q. Does this refer to the market-based 4 pricing that we discussed earlier? 5     <b>A. Yes.</b> 6     Q. The next line says, "Buy in low demand 7 periods of late spring to dry for July-Sept" -- 8 September -- "demands." Do you see that? 9     <b>A. Yes.</b> 10    Q. Is that what General Mills would do, is 11 they'd buy quantities in lower demand periods in 12 the late spring to dry for use in July through 13 September? 14    <b>A. If you could get the volume.</b> 15    Q. That's what General Mills would try to 16 do? 17    <b>A. We would try.</b> 18    Q. And did successfully at least at times, 19 right? 20    <b>A. Here and there, you could get it,</b> 21 <b>depending on the supplier.</b> 22    Q. And under "Advantages of this Strategy,"</p>	<p style="text-align: center;">129</p> <p>1 <b>market-based pricing or a grain-based pricing</b> 2 <b>model.</b> 3     Q. So this seasonality of the market 4 driving supplies up and prices down in summer 5 months, how would that form an advantage to General 6 Mills under cost-plus pricing? 7     <b>A. Because you would still have</b> 8 <b>seasonality -- regardless of any market that you're</b> 9 <b>buying in, there's seasonality to them.</b> 10    Q. So the seasonality would refer in that 11 case to corn or soybean meal and not to eggs; is 12 that right? 13    <b>A. That's right.</b> 14    Q. Under "Disadvantages," the document 15 lists "Exports of excess supplies depletes 16 inventories causing volatility in market." Do you 17 see that? 18    <b>A. Yup.</b> 19    Q. And "As more producers go vertical, 20 long-term value of strategy diminishes." Do you 21 see that? 22    <b>A. Yup.</b></p>

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<p style="text-align: center;">130</p> <p>1 Q. So what does this mean, "as more 2 producers go vertical"?</p> <p>3 <b>A. "Vertical" in the egg industry means 4 that they own the flock, the chickens themselves, 5 to owning potentially even the grains. So they own 6 the grains that feed the chickens which then make 7 the eggs which then the producers, you know, crack 8 and shell and turn into egg derivatives.</b></p> <p>9 Q. Why does a producer going vertical 10 diminish the long-term value of a market-based 11 egg-buying strategy?</p> <p>12 <b>A. Why would it diminish the value of -- 13 can you repeat your question again?</b></p> <p>14 Q. Sure. As egg producers go vertical --</p> <p>15 <b>A. Mm-hmm.</b></p> <p>16 Q. -- why does that diminish the long-term 17 value of a market-based egg-buying strategy?</p> <p>18 <b>A. Well, because what happens when they're 19 owning the chickens themselves, right, they control 20 the entire supply chain and so they control the 21 inputs and can turn on and off supply, which leads 22 to less market transparency because you don't get</b></p>	<p style="text-align: center;">132</p> <p>1 Q. What does that mean?</p> <p>2 <b>A. Well, because the variation that can 3 happen in the market could be off of input costs 4 and because when we go to a grain model we have the 5 ability to hedge that volatility through more open 6 and transparent markets like the Chicago Board of 7 Trade.</b></p> <p>8 Q. Okay. And is that what you mean here in 9 the second point, "Utilizes GMI experience in grain 10 risk management"?</p> <p>11 <b>A. It does.</b></p> <p>12 Q. And the third point, "Aligning with a 13 vertically integrated supplier will allow for 14 greater value creation for GMI"; is that right?</p> <p>15 <b>A. Mm-hmm.</b></p> <p>16 Q. Yes?</p> <p>17 <b>A. Yes. Sorry.</b></p> <p>18 Q. What does that mean?</p> <p>19 <b>A. Because this going to a feed-plus cost 20 model allowed us -- allowed us to then potentially 21 look at how the converting of grains to an actual 22 egg looks like and being able to maximize that.</b></p>
<p style="text-align: center;">131</p> <p>1 <b>the normal ebbs and flow of supply and demand as it 2 filters through the supply chain or the value 3 chain.</b></p> <p>4 Q. So it's in General Mills' view that egg 5 producers going vertical affects the market supply 6 of eggs?</p> <p>7 <b>A. It could.</b></p> <p>8 Q. Did it?</p> <p>9 <b>A. You know, I guess that's hard to say and 10 quantify if it did or if it didn't.</b></p> <p>11 Q. If you turn to the page that ends in 12 25 -- I don't know if they're all cut off or not.</p> <p>13 <b>A. This one?</b></p> <p>14 Q. Yes. It says "Future Egg-buying 15 Strategy" at the top.</p> <p>16 <b>A. Yup.</b></p> <p>17 Q. And this refers to the feed cost-plus 18 models; is that right?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And under "Advantages," it lists 21 "Reduced variation in the market"; is that right?</p> <p>22 <b>A. Mm-hmm.</b></p>	<p style="text-align: center;">133</p> <p>1 <b>That would be a future opportunity for us.</b></p> <p>2 Q. And how does that create greater value 3 for GMI?</p> <p>4 <b>A. Because it could create cost savings.</b></p> <p>5 Q. How?</p> <p>6 <b>A. Because if you can get better yields out 7 of the chickens, you get more eggs.</b></p> <p>8 Q. And so a vertically integrated supplier 9 would get better yields from its chickens?</p> <p>10 <b>A. I'm not saying a vertically integrated 11 supplier could or would. I'm saying that there is 12 the opportunity for us to explore that option. And 13 that's what it means by "value." There is a value 14 of a potential opportunity.</b></p> <p>15 Q. And does General Mills believe that 16 aligning with a vertically integrated supplier 17 does, in fact, allow for a greater value creation 18 for General Mills?</p> <p>19 <b>A. There is the potential for that. We 20 believe that there is a potential.</b></p> <p>21 Q. Has it actually been recognized by 22 General Mills?</p>

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<p>1      A. No, it hasn't.</p> <p>2      Q. Why not?</p> <p>3      A. Because we haven't been able to crack</p> <p>4      the code of how to make chickens -- have chickens</p> <p>5      make bigger eggs or more eggs.</p> <p>6      Q. When you say "we," is that something</p> <p>7      that General Mills is investigating?</p> <p>8      A. No.</p> <p>9      Q. If the chickens made bigger eggs or more</p> <p>10     eggs, why would it matter to General Mills if the</p> <p>11     supplier was vertically integrated?</p> <p>12     A. Because if they did, we could see -- we</p> <p>13     could see through that entire supply chain if it</p> <p>14     is. And we would have some insights into it when</p> <p>15     the supply chain is -- especially if you were</p> <p>16     aligning with somebody on a long-term contract,</p> <p>17     then you get better partnerships out of it.</p> <p>18     So you trade off the ebbs and flows of,</p> <p>19     you know, the supply and demand dynamics that</p> <p>20     happen when they are not vertically integrated for</p> <p>21     more control and more insights where you can help</p> <p>22     direct that.</p>	<p>1      Urner Barry price quotation, then fully describe</p> <p>2      each such agreement, identifying the purchases to</p> <p>3      which each was applicable." Do you see that?</p> <p>4      A. Mm-hmm.</p> <p>5      Q. And if you turn to page 4, the paragraph</p> <p>6      that starts "Based on preliminary information."</p> <p>7      A. Mm-hmm.</p> <p>8      Q. It states that "Plaintiff," in this case</p> <p>9      referring to General Mills, "estimated its</p> <p>10     purchases in the claim form submitted in connection</p> <p>11     with the Moark class settlement on October 5th 2010</p> <p>12     attached as Exhibit A." Do you see that?</p> <p>13     A. Yes.</p> <p>14     Q. So if you turn to Exhibit A at the end</p> <p>15     of this document --</p> <p>16     A. You mean attachment A?</p> <p>17     Q. So there is Exhibit A which follows</p> <p>18     page 7 --</p> <p>19     A. Okay.</p> <p>20     Q. -- and then page 4 of Exhibit A, which</p> <p>21     is the small numbers on the bottom --</p> <p>22     A. Okay.</p>
<p>135</p> <p>1      Q. So vertical integration of a supplier</p> <p>2      gives General Mills more of a relationship with</p> <p>3      that supplier or more insights into that supplier?</p> <p>4      A. That's right. Depending on the</p> <p>5      supplier.</p> <p>6      Q. I'll show you what's been marked as</p> <p>7      Exhibit 13.</p> <p>8                (Tran Exhibit 13 was</p> <p>9                marked for</p> <p>10               identification.)</p> <p>11     BY MR. DAVIS:</p> <p>12     Q. Have you ever seen this document before?</p> <p>13     A. Yes. I've seen components of this.</p> <p>14     Q. So this document is labeled "General</p> <p>15     Mills, Inc.'s Objections and Amended Answers to</p> <p>16     Defendant's First Set of Interrogatories."</p> <p>17     A. Mm-hmm.</p> <p>18     Q. And if you turn to page 3, interrogatory</p> <p>19     number 1, it says, "If during the period covered by</p> <p>20     your complaint you made purchases of products where</p> <p>21     you expressly agreed that the prices would be</p> <p>22     determined, in whole or in part, on the basis of an</p>	<p>137</p> <p>1      Q. -- it lists egg product purchases from</p> <p>2      in this case Moark, LLC/Norco Ranch, Inc./</p> <p>3      Land-O-Lakes, Inc. and it says, "See attachment A."</p> <p>4      Do you see that?</p> <p>5      A. Mm-hmm.</p> <p>6      Q. So then if you turn several more pages</p> <p>7      to attachment A.</p> <p>8      A. Yup.</p> <p>9      Q. And this lists General Mills' egg</p> <p>10     purchases beginning in the year 2000. Do you see</p> <p>11     that?</p> <p>12     A. Yes, I do.</p> <p>13     Q. Do you know how this information was</p> <p>14     determined?</p> <p>15     A. This was probably pulled from our</p> <p>16     archives, our SAP archives.</p> <p>17     Q. And how does this differ -- how does the</p> <p>18     SAP archive differ from the database that was used</p> <p>19     to create the spreadsheet that's labeled as</p> <p>20     Exhibit 2?</p> <p>21     A. Exhibit 2 is from our active database,</p> <p>22     our active ERP system. So, you know, anything that</p>

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<p style="text-align: center;">138</p> <p>1       <b>is archived would be premerger, and that's</b>      2       <b>basically filed away somewhere and, you know, you'd</b>      3       <b>have to have some special access to get to it.</b></p> <p>4       Q. So when we discussed Exhibit 2 --</p> <p>5       A. <b>Mm-hmm.</b></p> <p>6       Q. -- that data began in 2004; is that</p> <p>7       right?</p> <p>8       A. <b>That's correct.</b></p> <p>9       Q. And was it your testimony that General</p> <p>10      Mills did not have the data necessary to provide</p> <p>11      that information for years prior to 2004?</p> <p>12      A. <b>In our ERP system.</b></p> <p>13      Q. But General Mills does, in fact, have</p> <p>14      that information somewhere in the company?</p> <p>15      A. <b>Oh, in our archives. Yes. And that's</b>      16      <b>what I've learned.</b></p> <p>17      Q. Okay. If you turn back to page 5 of the</p> <p>18      document, in response to interrogatory number 2 in</p> <p>19      the paragraph that starts "Subject to and without</p> <p>20      waiving." Do you see that paragraph?</p> <p>21      A. <b>Mm-hmm.</b></p> <p>22      Q. "Plaintiff states that during the period</p>	<p style="text-align: center;">140</p> <p>1       beginning in or about early 2009 --</p> <p>2       A. <b>Yeah.</b></p> <p>3       Q. -- is separate and distinct from the</p> <p>4       period that's referred to as the period covered by</p> <p>5       the complaint; is that correct?</p> <p>6       A. <b>Well, the period of covered in the</b>      7       <b>complaint is -- can you define that?</b></p> <p>8       Q. That's what I'm asking. That's the</p> <p>9       language that General Mills uses --</p> <p>10      A. <b>Mm-hmm.</b></p> <p>11      Q. -- in responding to this question,</p> <p>12      saying that during the period covered by the</p> <p>13      complaint, its egg purchases from defendants were</p> <p>14      based in whole or in part on Urner Barry.</p> <p>15      A. <b>Yes. It was.</b></p> <p>16      Q. So does that period go up through 2008</p> <p>17      and then ends in or about early 2009, according to</p> <p>18      this answer?</p> <p>19      A. <b>Yes.</b></p> <p>20      Q. Is there any way in General Mills' data,</p> <p>21      whether it's the ERP data or the archived data, to</p> <p>22      determine how much of the money spent by General</p>
<p style="text-align: center;">139</p> <p>1       covered by the complaint, it did not make egg</p> <p>2       purchases from defendants based at prices each</p> <p>3       supplier set that were not based, in whole or in</p> <p>4       part, on an Urner Barry price quotation." Is that</p> <p>5       right?</p> <p>6       A. <b>That's what this says.</b></p> <p>7       Q. And so stripping out the double</p> <p>8       negatives, does this mean that all of the purchases</p> <p>9       that General Mills made during the period covered</p> <p>10      by the complaint were based in whole or in part on</p> <p>11      an Urner Barry price quotation, purchases from</p> <p>12      defendants?</p> <p>13      A. <b>Yes.</b></p> <p>14      Q. "Beginning in or about early 2009,</p> <p>15      plaintiff states that it shifted its egg purchases</p> <p>16      to a grain-based pricing formula"; is that right?</p> <p>17      A. <b>Yup.</b></p> <p>18      Q. And so is that -- beginning in or about</p> <p>19      early 2009 would be a separate period from the</p> <p>20      period covered by the complaint; is that right?</p> <p>21      A. <b>Can you ask that question again?</b></p> <p>22      Q. Sure. The period of time referred to as</p>	<p style="text-align: center;">141</p> <p>1       Mills on egg products was made under contracts that</p> <p>2       were based in whole or in part on Urner Barry?</p> <p>3       A. <b>Is there any way -- can you -- any way</b>      4       <b>to determine how much of our purchases orders were</b>      5       <b>under Urner Barry?</b></p> <p>6       Q. Yes.</p> <p>7       A. <b>Going back how far?</b></p> <p>8       Q. Until 1999.</p> <p>9       A. <b>Yes, there would be.</b></p> <p>10      Q. And how would that be done?</p> <p>11      A. <b>Well, we would pull it from our ERP</b>      12      <b>system and from our archives together and basically</b>      13      <b>survey all the prior buyers.</b></p> <p>14      Q. So you would take the ERP system which</p> <p>15      showed the money that was spent; is that right?</p> <p>16      A. <b>Uh-huh.</b></p> <p>17      Q. And then you would take the purchase</p> <p>18      orders that correspond to those orders; is that</p> <p>19      right?</p> <p>20      A. <b>Yes.</b></p> <p>21      Q. And do the purchase orders say the basis</p> <p>22      upon which the price term was negotiated?</p>

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<p style="text-align: center;">146</p> <p>1           MR. DAVIS: For the record, you may, 2       Mr. Campbell, also want to mark this document as 3       highly confidential. I believe the stamp did not 4       print on the native form.</p> <p>5           MR. CAMPBELL: Okay. Make a note of 6       that to get from Jon those documents.</p> <p>7           BY MR. DAVIS:</p> <p>8       Q. Mr. Tran, do you recognize Exhibit 14?</p> <p>9       <b>A. Yeah. It looks like a pricing quote.</b></p> <p>10      Q. Is this a pricing quote from M.G. 11     Wallbaum Company?</p> <p>12      <b>A. Yes.</b></p> <p>13      Q. And is that part of Michael Foods?</p> <p>14      <b>A. Yes, it is.</b></p> <p>15      Q. Does this pricing quote on page 1 apply 16     to the period of July 2001 through September of 17     2001?</p> <p>18      <b>A. Yes, it does.</b></p> <p>19      Q. And on page 2 from October of 2001 20     through December 2001?</p> <p>21      <b>A. Yes.</b></p> <p>22      Q. And at the top these are called</p>	<p style="text-align: center;">148</p> <p>1       <b>A. It wouldn't appear as such.</b></p> <p>2       Q. So did General Mills have the 3       opportunity prior to 2008 to purchase eggs under a 4       pricing formula that did not involve Urner Barry 5       pricing?</p> <p>6       <b>A. Yeah. We had -- well, from this it 7       looks like we had quotes out there from it. So we 8       had offers.</b></p> <p>9       Q. And General Mills -- did General Mills 10      accept this offer?</p> <p>11      <b>A. At 2001 I'm not entirely certain. I 12      don't know.</b></p> <p>13      Q. So can you state affirmatively that 14      2008 -- between 1999 and 2008 General Mills did not 15      purchase egg products based off of a pricing quote 16      that did not include Urner Barry?</p> <p>17      <b>A. I can't say for certain.</b></p> <p>18      Q. Okay. If you turn back to Exhibit 13 at 19      the bottom of page 5 during the period covered by 20      the complaint "it did not" -- it being General 21      Mills -- "did not make egg purchases from 22      defendants based at prices each supplier set that</p>
<p style="text-align: center;">147</p> <p>1       grain-based pricing quotes for General Mills. Do 2       you see that?</p> <p>3       <b>A. Yup.</b></p> <p>4       Q. Did General Mills receive grain based 5       pricing quotes from M.G. Wallbaum company in 2001?</p> <p>6       <b>A. Yes. There was grain -- there was grain 7       referenced in these prices. But the tie between 8       grains and ultimately the eggs continually shifted. 9       All right? So that wasn't always static. So there 10      wasn't a cost-plus component to it. But although 11      they reference grain markets in there there wasn't 12      a -- there wasn't a true correlation.</b></p> <p>13      Q. You're saying that grain-based pricing 14      quote by M.G. Wallbaum Company was not a pricing 15      quote that was based on grain?</p> <p>16      <b>A. There was a grain component to it but 17      you still had -- you know, you still had the 18      factors -- the conversion factors of it still 19      moved. So the cost-plus component of it was not in 20      this.</b></p> <p>21      Q. Was this quote based on Urner Barry 22      market pricing?</p>	<p style="text-align: center;">149</p> <p>1       were not based, in whole or in part, on an Urner 2       Barry price quotation."</p> <p>3       <b>A. Mm-hmm.</b></p> <p>4       Q. And we talked about Exhibit 14 from M.G. 5       Wallbaum that is a part of Michael Foods, right?</p> <p>6       <b>A. Yup.</b></p> <p>7       Q. Michael Foods is a defendant in this 8       litigation, right?</p> <p>9       <b>A. That's correct.</b></p> <p>10      Q. Is the sentence that I just read to you 11      from Exhibit 13 accurate?</p> <p>12      <b>A. To my knowledge it is. This -- your 13      Exhibit 14, I am not certain if this offer was 14      accepted.</b></p> <p>15      Q. So it might be accurate; it might be 16      inaccurate?</p> <p>17      MR. CAMPBELL: Objection, speculation. 18      BY MR. DAVIS:</p> <p>19      Q. You don't know whether it's accurate?</p> <p>20      <b>A. I can't say that. To my knowledge this 21      is accurate.</b></p> <p>22      Q. Did you Exhibit 14 -- you have no</p>

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<p style="text-align: center;">150</p> <p>1 knowledge of what resulted from the price quote 2 laid out in Exhibit 14; is that right?</p> <p>3     <b>A. I don't have any knowledge of that.</b></p> <p>4     Q. To your knowledge at any point in time 5 did General Mills purchase from Michael Foods under 6 a price quote that did not involve Urner Barry 7 pricing?</p> <p>8     <b>A. No. Not to my knowledge.</b></p> <p>9     Q. Okay. I'll show you what's been marked 10 as Exhibit 15.</p> <p>11                 (Tran Exhibit 15 was 12                 marked for 13                 identification.)</p> <p>14     BY MR. DAVIS:</p> <p>15     Q. Exhibit 15 is not dated on its face. I 16 will represent to you that the metadata associated 17 with it indicates that it is likely from either 18 2001 or 2003. But I will ask you if you have any 19 ability to date this document given the information 20 that's laid out in it?</p> <p>21     <b>A. No, I couldn't date it.</b></p> <p>22     Q. It is single sourced with Michael Foods.</p>	<p style="text-align: center;">152</p> <p>1     <b>A. I'm not aware of any.</b> 2     Q. So to the best of your knowledge -- 3     <b>A. Yes.</b> 4     Q. -- General Mills' purchases under a 5 grain-based formula were ones that did not 6 including Urner Barry pricing; is that right? 7     <b>A. That's correct.</b> 8     Q. Okay. Did General Mills receive any 9 proposals to purchase egg products under 10 grain-based contracts prior to 2008? 11     <b>A. Can you ask that question again?</b> 12     Q. Aside from the M.G. Wallbaum instance -- 13     <b>A. Mm-hmm.</b> 14     Q. -- or instances, as they were, did 15 General Mills receive any other proposals to be 16 supplied with egg products under grain-based 17 contracts prior to 2008? 18     <b>A. Not to my knowledge.</b> 19     Q. You testified earlier that General Mills 20 would attempt to purchase egg products on a 21 seasonal basis when possible; is that right? 22     <b>A. Yes.</b></p>
<p style="text-align: center;">151</p> <p>1 Do you see that line? 2     <b>A. Yup.</b> 3     Q. What does that mean to you? 4     <b>A. That means all of our purchases came 5 from Michael Foods. So there wouldn't be any other 6 suppliers.</b></p> <p>7     Q. And did that circumstance ever exist? 8     <b>A. Early on it did. But I've heard of -- 9 I've heard of it probably in the '90s.</b></p> <p>10    Q. The fourth bullet point says "Pricing is 11 determined using a grain-based formula." Do you 12 see that? 13    <b>A. Yes.</b> 14    Q. Do you have any knowledge of what that 15 means? 16    <b>A. It depends on how it could look like. 17 You know, the -- I would only be speculating 18 because you could -- it could look in different 19 ways.</b></p> <p>20    Q. Are you aware of General Mills ever 21 purchasing under a grain-based formula that also 22 incorporated Urner Barry pricing?</p>	<p style="text-align: center;">153</p> <p>1     Q. And was that true for all of General 2 Mills' egg product or only certain ones? 3     <b>A. It was dependent on what we could get. 4 So, you know, it might have been dried eggs or 5 liquid eggs. It depended on the suppliers' 6 willingness to go out further.</b></p> <p>7     Q. And how long could General Mills store 8 egg products that it purchased? 9     <b>A. Dry eggs can generally be stored maybe 10 about six months at the most. Liquids it was very 11 short shelf life. Maybe a month or so.</b></p> <p>12    Q. And obviously General Mills didn't 13 purchase shell eggs, but fair to say you can't 14 store shell eggs for six months? 15    <b>A. No. You couldn't store shell eggs.</b></p> <p>16    Q. So the ability to purchase seasonally 17 depends at least in part on the types of eggs or 18 egg products that the purchaser is buying, right? 19    <b>A. That's correct.</b></p> <p>20    Q. And to the extent that you're buying 21 dried products which you can store for a longer 22 period of time, you can try to take greater</p>

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<p style="text-align: center;">162</p> <p>1     <b>A. That would be a grain-based quote.</b>      2     Q. That does not take Urner Barry into      3 account; is that right?      4     <b>A. That's correct.</b>      5     Q. And over this period it looks like with      6 a few very, very small exceptions and then one      7 larger exception, the Urner Barry whole price is      8 lower than the REI liquid whole price. Is that a      9 fair assessment?      10    <b>A. Based on this chart it would look like</b>      11 <b>that. The thing that I would note is that, you</b>      12 <b>know, we can't see what the model looks like</b>      13 <b>underneath this. So I don't know which rendition</b>      14 <b>of the actual model and what part of the</b>      15 <b>negotiation that this REI liquid -- you know, what</b>      16 <b>it encompassed.</b>      17    Q. Fair enough, but as of June 2007 the      18 negotiation up until that point, that's a fair      19 assessment?      20    <b>A. That's right.</b>      21    Q. And you'll see that the period from, I      22 will say, July 2003 through July 2004 there's a</p>	<p style="text-align: center;">164</p> <p>1     Q. Do you know why that in particular is      2 listed on this chart?      3     <b>A. It was listed on this chart because it</b>      4 <b>was what was going on. It was what was in the news</b>      5 <b>so people could -- people would understand that.</b>      6     Q. It's the only news event that's listed      7 on this entire chart that spans seven years; is      8 that right?      9     <b>A. That's right.</b>      10    Q. So did General Mills consider it a      11 significant event in terms of the price of eggs?      12    <b>A. You know, I don't know. I don't know</b>      13 <b>what you would call significant. But yes, it was</b>      14 <b>part of the reason why the prices went up that</b>      15 <b>high.</b>      16    Q. And it's in fact the only one that      17 bothered to be listed on this chart, right?      18    MR. CAMPBELL: Objection, argumentative.      19    <b>A. Yeah. It's what was put on the chart,</b>      20 <b>you know.</b>      21    BY MR. DAVIS:      22    Q. And did Tiffany Mercuri create this</p>
<p style="text-align: center;">163</p> <p>1 difference where the Urner Barry price goes up      2 above the REI price. Do you see that?      3     <b>A. Yes.</b>      4     Q. And it says at the top, "Atkins diet      5 fad." Do you see that?      6     <b>A. Yes.</b>      7     Q. Do you know what that's referring to?      8     <b>A. The Atkins diet was a diet that favored</b>      9 <b>lots of proteins and zero carbohydrates. So things</b>      10 <b>like eggs and meat products were highly consumed.</b>      11 <b>So the diet basically said that you could eat as</b>      12 <b>much protein as you want, just cut out the carbs.</b>      13    Q. And so did the Atkins diet increase the      14 demand for eggs in the 2003/2004 time period?      15     <b>A. Yes.</b>      16     Q. And did that result in an increased      17 price for eggs?      18     <b>A. Yes. It was a contributing factor to,</b>      19 <b>you know, the prices of eggs.</b>      20     Q. Was it a substantial contributing      21 factor?      22     <b>A. That I don't know.</b></p>	<p style="text-align: center;">165</p> <p>1 document?      2     <b>A. Yes, she did.</b>      3     Q. And would she be the best person to      4 answer why they chose the Atkins diet fad to list      5 on this chart?      6     <b>A. She could answer it, but I think that</b>      7 <b>she would give you the same answer, which is it is</b>      8 <b>what was in the news at the time so that's what was</b>      9 <b>put on there.</b>      10    Q. It was what was in the news in 2003,      11 2004?      12     <b>A. Yes.</b>      13     Q. But this chart was made in 2007?      14     <b>A. That's right.</b>      15     Q. So going back three years it was a      16 newsworthy enough item to list on this chart,      17 correct?      18     <b>A. Yes.</b>      19     Q. Okay. You can put that aside.      20     MR. CAMPBELL: Evan, I think it's about      21 time.      22     MR. DAVIS: Do you want to take a break</p>

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<p style="text-align: center;">166</p> <p>1 now for lunch?</p> <p>2 MR. CAMPBELL: Yeah.</p> <p>3 MR. DAVIS: Absolutely.</p> <p>4 MR. CAMPBELL: All right with you?</p> <p>5 MR. DAVIS: Fine by me. Off the record.</p> <p>6 THE VIDEOGRAPHER: We're going off the record at 12:52.</p> <p>7 (Whereupon, at 12:52 p.m. a lunch recess was taken.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: center;">168</p> <p>1 We had spoken about the effect of the Atkins diet on demand for eggs and the subsequent effect on the price of eggs. Were there other factors that would affect the price of -- the supply or demand for eggs and therefore the price of eggs?</p> <p>2 <b>A. Yeah. You could have disease outbreaks. You could have weather issues. You know. And maybe holidays, you know, could affect the prices.</b></p> <p>3 Q. How about feed costs? Would that be a factor?</p> <p>4 <b>A. Feed costs would be a factor.</b></p> <p>5 Q. Energy costs, would that be a factor?</p> <p>6 <b>A. To a lesser degree. Maybe on the drying, the dried egg side, it would be a factor.</b></p> <p>7 Q. You've been handed what's been marked as Exhibit 19. And this is a March 2007 presentation. If you'll turn to the page that's marked at the bottom -- it ends with 141. It says at the top "Egg industry profitability, 2001 to 2006."</p> <p>8 <b>A. Mm-hmm.</b></p> <p>9 Q. And would you agree here that the egg</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: center;">167</p> <p>1 A F T E R N O O N S E S S I O N</p> <p>2 (1:33 p.m.)</p> <p>3 * * * * *</p> <p>4 Whereupon,</p> <p>5 BINH TRAN,</p> <p>6 the witness testifying at the time of</p> <p>7 recess, having been previously duly</p> <p>8 sworn, was further examined and testified</p> <p>9 as follows.</p> <p>10 * * * * *</p> <p>11 EXAMINATION RESUMED BY COUNSEL FOR THE</p> <p>12 DEFENDANTS UNITED EGG PRODUCERS AND THE</p> <p>13 UNITED STATES EGG MARKETERS</p> <p>14 (Deposition Exhibit 19</p> <p>15 was marked for</p> <p>16 identification)</p> <p>17 THE VIDEOGRAPHER: This is video number</p> <p>18 4 in the deposition of Binh Tran taken on August</p> <p>19 13th 2013. The time now is 1:33 p.m.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. Mr. Tran, we had spoken about -- you can</p> <p>22 put that off to the side for the time being.</p>	<p style="text-align: center;">169</p> <p>1 industry was not profitable during this period except for the 2003 to 2004 period?</p> <p>2 MR. CAMPBELL: I object. Do you mean does he agree that this is what the chart shows or does he have independent knowledge of that?</p> <p>3 MR. DAVIS: We can ask them separately.</p> <p>4 BY MR. DAVIS:</p> <p>5 Q. Do you agree that's what this chart shows?</p> <p>6 <b>A. That's what the chart would show.</b></p> <p>7 Q. And do you have any reason to think that this chart is not correct?</p> <p>8 <b>A. Possibly.</b></p> <p>9 Q. And what's that reason?</p> <p>10 <b>A. Oh. Because this is an average, so I couldn't say that this is across the board what everybody -- if everybody is profitable or unprofitable because they would all have different cost structures and different efficiencies in their operation.</b></p> <p>11 Q. Right. And so what -- one producer's profitability is not necessarily another producer's</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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<p style="text-align: center;">178</p> <p>1       we probably had a perspective. But that doesn't 2       mean that 2002 we would have that same perspective 3       because we might not have updated this. 4       Q. Was it important for General Mills to 5       ascertain what it thought the fair pricing of eggs 6       to be? 7       <b>A. It depends on -- it depends on, you</b> 8       <b>know, are we able to use it in our negotiations.</b> 9       <b>So if we can use it and it becomes a negotiation</b> 10      <b>tool for us, you know, to lower our costs then</b> 11      <b>we'll use it. But if we don't really get any</b> 12      <b>traction or the suppliers say, you know what, I</b> 13      <b>don't believe your model and your model doesn't</b> 14      <b>matter anyways, we might not update it.</b> 15      Q. Well, let's talk about that negotiation. 16      <b>A. Mm-hmm.</b> 17      Q. You said -- let's first use the -- for 18       example, if you pull out Exhibit 11, that was the 19       purchase order from Michael Foods Waldbaum. Now, 20       you had said that the prices that are quoted in 21       Exhibit 11 were based off of an Urner Barry market 22       quote; is that right?</p>	<p style="text-align: center;">180</p> <p>1       <b>A. No. The prices that were set were based</b> 2       <b>on what was reported out of Urner Barry with a lag</b> 3       <b>So there wasn't a forecasted price and that's what</b> 4       <b>was put into these prices. It was actually what</b> 5       <b>was printed on Urner Barry.</b> 6       Q. In your experience as a buyer of eggs is 7       the Urner Barry price in May through August of a 8       given year higher or lower than the Urner Barry 9       price in April of that year? 10      <b>A. From the prior year?</b> 11      Q. No. The same year. 12      <b>A. Okay. So you're asking -- so is April</b> 13      <b>through -- what was the time period?</b> 14      Q. The Urner Barry price in April compared 15      to the Urner Barry price from the period of May 16      through August -- 17      <b>A. Yeah.</b> 18      Q. -- how do they compare? 19      <b>A. May through August. Generally, you</b> 20      <b>know, seasonally you'd probably find a little bit</b> 21      <b>of a higher price in April.</b> 22      Q. And so on Exhibit 11 was General Mills</p>
<p style="text-align: center;">179</p> <p>1       <b>A. Mm-hmm.</b> 2       Q. And you said that that quote would have 3       been taken from the early part of April of 2006? 4       <b>A. Sure.</b> 5       Q. Is that accurate? 6       <b>A. It's accurate.</b> 7       Q. And was that quote then subject to some 8       form of negotiation? 9       <b>A. The base price -- the base foundation</b> 10      <b>price of Urner Barry is not subject to negotiation.</b> 11      <b>You know, we could ask for whatever price we want,</b> 12      <b>but generally it's -- that's not really taken.</b> 13      <b>It's the Urner Barry price is what it is. That's</b> 14      <b>the fair market value and, General Mills, you can</b> 15      <b>take it or I will sell it to somebody else.</b> 16      Q. And was there any negotiation involved 17       in the fact that this price was being quoted for a 18       term of more than a month -- in this case four 19       months -- and whether or not the Urner Barry price 20       as of April 1st accurately reflected what the 21       market price would be during the period of May 1st 22       through August 31st of that year?</p>	<p style="text-align: center;">181</p> <p>1       agreeing to purchase eggs for the period of May 2       through August based off of an Urner Barry price 3       derived on April 1st? 4       <b>A. Yes.</b> 5       Q. Why? 6       <b>A. Why would we --</b> 7       Q. Why did General Mills not insist on 8       receiving an Urner Barry price that more accurately 9       reflected the market price of eggs from May through 10      August? 11      <b>A. Because at the time that we issued this</b> 12      <b>purchase order or this purchase agreement, there</b> 13      <b>was no set prices out there. So we would be</b> 14      <b>pulling prices -- there wouldn't be a reference</b> 15      <b>price. And so the suppliers wouldn't agree to</b> 16      <b>something that is not printed.</b> 17      We can ask them for a price, but they're 18       not going to agree to it unless it's actually 19       printed and indexed off of Urner Barry with a set 20       price. 21      Q. So is it your testimony that no supplier 22       of egg products to General Mills ever was willing</p>

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<p style="text-align: center;">186</p> <p>1 and it would just know that it's receiving a cost 2 savings as a result of a negotiation; is that 3 right?</p> <p><b>A. That's correct.</b></p> <p>5 Q. And so in those latter circumstances it 6 might be the case that there's no cost savings on 7 the freight end or the packaging end, but just a 8 straight discount that's given to General Mills by 9 the producer; is that fair?</p> <p>10 MR. CAMPBELL: Objection to the form of 11 the question.</p> <p><b>A. Yeah, I -- I'd be speculating. So I 13 couldn't answer that.</b></p> <p>14 BY MR. DAVIS:</p> <p>15 Q. But in those circumstances you don't 16 know whether or not the producer is realizing any 17 cost savings on freight, correct?</p> <p><b>A. You know, on the egg side because of the 19 way that we had purchased and the way that the 20 suppliers have quoted their cost, it would have -- 21 the cost savings that would have to be derived 22 would have to come out of a, you know, freight or a</b></p>	<p style="text-align: center;">188</p> <p><b>A. That would be the buyer.</b></p> <p>2 Q. So that was you for several years?</p> <p><b>A. That's correct.</b></p> <p>4 Q. And would you typically e-mail the egg 5 producers to conduct these negotiations?</p> <p><b>A. It would typically be -- it would 7 typically be over e-mail. You know, the 8 conversation would probably start out with a 9 face-to-face meeting, which we generally had once a 10 quarter anyways to review, you know, business 11 situations and volumes and et cetera. Those 12 things.</b></p> <p>13 Q. Did General Mills subscribe to any 14 publications that described the egg industry?</p> <p><b>A. Yes. We would subscribe to Urner Barry, 16 obviously, and things like Milling &amp; Baking and 17 Informa and Sparks publications.</b></p> <p>18 Q. How about Feedstuffs?</p> <p><b>A. No. We didn't subscribe to that.</b></p> <p>20 Q. Egg Industry Magazine?</p> <p><b>A. No. That doesn't ring a bell.</b></p> <p>22 Q. Watt Poultry?</p>
<p style="text-align: center;">187</p> <p><b>1 packaging or some other added ingredients because 2 all of our costs always referenced that Urner Barry 3 price.</b></p> <p>4 Q. How often would negotiations about 5 pricing take place with egg product suppliers?</p> <p><b>A. It was on a pretty -- for which 7 components?</b></p> <p>8 Q. The pricing components.</p> <p><b>A. Okay. So the Urner Barry and the 10 freight and everything and the packaging?</b></p> <p>11 Q. On a market-based pricing system. Sure.</p> <p><b>A. Yeah. So on the market side of it, you 13 know, it would range. It could be monthly. 14 Generally we probably wouldn't visit the freight or 15 the packaging side monthly. We'd probably do that, 16 you know, once a quarter to six months.</b></p> <p>17 Q. And would those be in person or by phone 18 or through e-mail?</p> <p><b>A. It would be a combination of the three.</b></p> <p>Q. And who would be responsible on the General Mills end for conducting those negotiations?</p>	<p style="text-align: center;">189</p> <p><b>A. No. That doesn't ring a bell.</b></p> <p>2 Q. If you turn back to Exhibit --</p> <p>3 MR. CAMPBELL: What's the date on it, 4 Evan?</p> <p>5 MR. DAVIS: It's the March 2007 6 presentation.</p> <p><b>A. March? 19?</b></p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Yeah. Exhibit 19.</p> <p><b>A. Okay.</b></p> <p>11 Q. If you would turn to the page that ends 12 in 42 --</p> <p><b>A. Okay. Egg market overview?</b></p> <p>14 Q. Yes.</p> <p><b>A. Okay.</b></p> <p>16 Q. It says that the market displayed more 17 volatility than normal in 2006.</p> <p><b>A. Okay.</b></p> <p>19 Q. And then the first point is "An imbalance in supply / demand created excess supplies." Do you see that?</p> <p><b>A. Yes.</b></p>
<p style="text-align: center;">186</p> <p>1 and it would just know that it's receiving a cost 2 savings as a result of a negotiation; is that 3 right?</p> <p><b>A. That's correct.</b></p> <p>5 Q. And so in those latter circumstances it 6 might be the case that there's no cost savings on 7 the freight end or the packaging end, but just a 8 straight discount that's given to General Mills by 9 the producer; is that fair?</p> <p>10 MR. CAMPBELL: Objection to the form of 11 the question.</p> <p><b>A. Yeah, I -- I'd be speculating. So I 13 couldn't answer that.</b></p> <p>14 BY MR. DAVIS:</p> <p>15 Q. But in those circumstances you don't 16 know whether or not the producer is realizing any 17 cost savings on freight, correct?</p> <p><b>A. You know, on the egg side because of the 19 way that we had purchased and the way that the 20 suppliers have quoted their cost, it would have -- 21 the cost savings that would have to be derived 22 would have to come out of a, you know, freight or a</b></p>	<p style="text-align: center;">188</p> <p><b>A. That would be the buyer.</b></p> <p>2 Q. So that was you for several years?</p> <p><b>A. That's correct.</b></p> <p>4 Q. And would you typically e-mail the egg 5 producers to conduct these negotiations?</p> <p><b>A. It would typically be -- it would 7 typically be over e-mail. You know, the 8 conversation would probably start out with a 9 face-to-face meeting, which we generally had once a 10 quarter anyways to review, you know, business 11 situations and volumes and et cetera. Those 12 things.</b></p> <p>13 Q. Did General Mills subscribe to any 14 publications that described the egg industry?</p> <p><b>A. Yes. We would subscribe to Urner Barry, 16 obviously, and things like Milling &amp; Baking and 17 Informa and Sparks publications.</b></p> <p>18 Q. How about Feedstuffs?</p> <p><b>A. No. We didn't subscribe to that.</b></p> <p>20 Q. Egg Industry Magazine?</p> <p><b>A. No. That doesn't ring a bell.</b></p> <p>22 Q. Watt Poultry?</p>
<p style="text-align: center;">187</p> <p><b>1 packaging or some other added ingredients because 2 all of our costs always referenced that Urner Barry 3 price.</b></p> <p>4 Q. How often would negotiations about 5 pricing take place with egg product suppliers?</p> <p><b>A. It was on a pretty -- for which 7 components?</b></p> <p>8 Q. The pricing components.</p> <p><b>A. Okay. So the Urner Barry and the 10 freight and everything and the packaging?</b></p> <p>11 Q. On a market-based pricing system. Sure.</p> <p><b>A. Yeah. So on the market side of it, you 13 know, it would range. It could be monthly. 14 Generally we probably wouldn't visit the freight or 15 the packaging side monthly. We'd probably do that, 16 you know, once a quarter to six months.</b></p> <p>17 Q. And would those be in person or by phone 18 or through e-mail?</p> <p><b>A. It would be a combination of the three.</b></p> <p>Q. And who would be responsible on the General Mills end for conducting those negotiations?</p>	<p style="text-align: center;">189</p> <p><b>A. No. That doesn't ring a bell.</b></p> <p>2 Q. If you turn back to Exhibit --</p> <p>3 MR. CAMPBELL: What's the date on it, 4 Evan?</p> <p>5 MR. DAVIS: It's the March 2007 6 presentation.</p> <p><b>A. March? 19?</b></p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Yeah. Exhibit 19.</p> <p><b>A. Okay.</b></p> <p>11 Q. If you would turn to the page that ends 12 in 42 --</p> <p><b>A. Okay. Egg market overview?</b></p> <p>14 Q. Yes.</p> <p><b>A. Okay.</b></p> <p>16 Q. It says that the market displayed more 17 volatility than normal in 2006.</p> <p><b>A. Okay.</b></p> <p>19 Q. And then the first point is "An imbalance in supply / demand created excess supplies." Do you see that?</p> <p><b>A. Yes.</b></p>

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<p style="text-align: right;">190</p> <p>1 Q. What does that mean?</p> <p>2 A. Well, if there was an imbalance that's</p> <p>3 creating excess supply, meaning it means that</p> <p>4 there's more supply than there is demand. So</p> <p>5 there's more inventory out there in the industry.</p> <p>6 Q. And why does that create more</p> <p>7 volatility?</p> <p>8 A. It creates more volatility because, you</p> <p>9 know, prices -- volatility is really a reflection</p> <p>10 of prices. And prices is the search or the outcome</p> <p>11 of where supply and demand ultimately meet.</p> <p>12 Q. It goes on to say "Production costs will</p> <p>13 continue to elevate due to strong corn prices and</p> <p>14 high feed costs." Right?</p> <p>15 A. Correct.</p> <p>16 Q. And then "Rebalancing of supply to</p> <p>17 sustainable levels will create a less volatile</p> <p>18 environment." Did I read that correctly?</p> <p>19 A. Right.</p> <p>20 Q. Now, the date of this is March 2007. So</p> <p>21 is it General Mills' expectation as of then that</p> <p>22 these factors would lead to an increase in the cost</p>	<p style="text-align: right;">192</p> <p>1 Q. Are some of them almost definitely</p> <p>2 variable costs?</p> <p>3 A. Yeah. Feed is going to be a variable</p> <p>4 cost.</p> <p>5 Q. How about pellet?</p> <p>6 A. Yes and no. It depends on if they're</p> <p>7 vertically integrated or not or do they have long</p> <p>8 term supply agreements with the pellet producer.</p> <p>9 Q. Well, let's take feed then.</p> <p>10 A. Mm-hmm.</p> <p>11 Q. It's a variable cost. So if a producer</p> <p>12 decreases its supply of hens will it reduce the</p> <p>13 cost of its feed?</p> <p>14 A. The per pound cost, it will not reduce</p> <p>15 that.</p> <p>16 Q. The out of pocket cost.</p> <p>17 A. The out of pocket costs it will.</p> <p>18 Q. Okay. So by reducing the number of hens</p> <p>19 that it has in its production a producer would save</p> <p>20 money on its variable costs including feed, right?</p> <p>21 A. Yes.</p> <p>22 Q. And feed alone is 59 percent of the cost</p>
<p style="text-align: right;">191</p> <p>1 of eggs?</p> <p>2 A. These were contributing factors to the</p> <p>3 increase in costs of eggs.</p> <p>4 Q. If you turn back to page 140, total egg</p> <p>5 production cost --</p> <p>6 A. Yes.</p> <p>7 Q. -- why was it important to General Mills</p> <p>8 to understand the breakdown for a total egg</p> <p>9 production cost?</p> <p>10 A. It's important for us to understand that</p> <p>11 production cost so that we know the contributing</p> <p>12 factors and how much do they ultimately impact the</p> <p>13 prices.</p> <p>14 Q. And are some of these production costs</p> <p>15 fixed costs for an egg producer?</p> <p>16 MR. CAMPBELL: Objection, lack of</p> <p>17 foundation.</p> <p>18 A. Yeah. I couldn't tell you. It depends</p> <p>19 on which supplier and what is their current state.</p> <p>20 In a lot of cases all of these could be variable</p> <p>21 costs.</p> <p>22 BY MR. DAVIS:</p>	<p style="text-align: right;">193</p> <p>1 of egg production; is that right?</p> <p>2 A. Yes. Of their costs.</p> <p>3 Q. Of their costs.</p> <p>4 A. Of the producer's costs.</p> <p>5 Q. We talked a little bit earlier about</p> <p>6 hedging and how General Mills uses grain risk</p> <p>7 management. Do you remember that discussion?</p> <p>8 A. Yes.</p> <p>9 Q. Does General Mills also do any hedging</p> <p>10 based on other commodities, for example, corn?</p> <p>11 A. Yes. We'll do hedging on corn, wheat,</p> <p>12 energy, on a lot of things.</p> <p>13 Q. And would hedging on corn affect General</p> <p>14 Mills' costs or -- strike that.</p> <p>15 The price of eggs varies in part due to</p> <p>16 the price of corn; is that fair? Under a</p> <p>17 market-based model.</p> <p>18 A. The price of corn is a contributing</p> <p>19 factor to the price of eggs.</p> <p>20 Q. And as the price of corn increases the</p> <p>21 market price for egg would increase by some factor;</p> <p>22 is that fair?</p>

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<p style="text-align: right;">194</p> <p>1       <b>A. Yes.</b></p> <p>2       Q. And does General Mills' corn hedging</p> <p>3       strategy at least partially offset those price</p> <p>4       increases?</p> <p>5       <b>A. Under an Urner Barry market type of</b></p> <p>6       <b>model, it does not and it would not.</b></p> <p>7       Q. Why not?</p> <p>8       A. Because in order for any company to</p> <p>9       hedge there needs to be really good correlation</p> <p>10       against what it is that you're buying and the</p> <p>11       underlying market that you're hedging. If there is</p> <p>12       not correlation against that, the company would be</p> <p>13       considering speculating.</p> <p>14       And General Mills, by nature of the type</p> <p>15       of company that we are, we are not speculators in</p> <p>16       the market. And our shareholders would not want us</p> <p>17       to be doing that either.</p> <p>18       Q. But General Mills does in fact have a</p> <p>19       corn hedging strategy; is that right?</p> <p>20       <b>A. Yes. We do, for our corn purchases.</b></p> <p>21       Q. I understand that that's the -- it might</p> <p>22       be the motivating factor, but the end result is</p>	<p style="text-align: right;">196</p> <p>1       Q. Okay.</p> <p>2       <b>A. For direct corn purchases.</b></p> <p>3       Q. And is the hedging tied to direct corn</p> <p>4       purchases?</p> <p>5       <b>A. Yes.</b></p> <p>6       Q. How?</p> <p>7       <b>A. Well, because there's a correlation --</b></p> <p>8       we are actually buying corn. Right? So our</p> <p>9       pricing models from our corn producers basically</p> <p>10       reference the Chicago Board of Trade corn price as</p> <p>11       our foundation, as the base of our prices. So</p> <p>12       there is a hundred percent correlation between the</p> <p>13       price that we pay and the underlying market and</p> <p>14       derivative that we use.</p> <p>15       Q. And so when the price of corn goes up --</p> <p>16       <b>A. Mm-hmm.</b></p> <p>17       Q. -- General Mills will pay more for corn</p> <p>18       that it has to purchase for its products, right?</p> <p>19       <b>A. Correct.</b></p> <p>20       Q. But that increased cost will be offset</p> <p>21       to some degree by the hedging that it's done in the</p> <p>22       corn market?</p>
<p style="text-align: right;">195</p> <p>1       that when the price of corn increases the effect of</p> <p>2       that increase on the price of eggs is to some</p> <p>3       degree mitigated by General Mills' corn hedging; is</p> <p>4       that fair?</p> <p>5       MR. CAMPBELL: Objection, asked and</p> <p>6       answered.</p> <p>7       <b>A. I think you need to put it into context.</b></p> <p>8       If under a cost-plus grain model that has corn and</p> <p>9       soybeans, soybean meal, as the basic component, we</p> <p>10       can hedge part of that volatility to provide more</p> <p>11       predictability in our prices. If it is a</p> <p>12       corn-based model, grain model, for eggs, then we</p> <p>13       can.</p> <p>14       <b>If our prices models are based on Urner</b></p> <p>15       <b>Barry we cannot hedge that, that volatility or that</b></p> <p>16       <b>market risk.</b></p> <p>17       BY MR. DAVIS:</p> <p>18       Q. But does the hedging that General Mills</p> <p>19       does for its corn purchases offset increases in the</p> <p>20       price of corn?</p> <p>21       <b>A. Offset -- for corn, for corn purchases,</b></p> <p>22       yes, it does.</p>	<p style="text-align: right;">197</p> <p>1       <b>A. Not necessarily. So hedging is not</b></p> <p>2       <b>meant to give you lower cost. It's meant to</b></p> <p>3       <b>provide you more price predictability. You cannot</b></p> <p>4       <b>hedge away what the market has actually done.</b></p> <p>5       <b>Right? So it depends on where you have your hedge.</b></p> <p>6       So that's just a clarifying point there,</p> <p>7       that if markets go up, depending on where we</p> <p>8       actually have our hedge, we might be lower than the</p> <p>9       market or we might be higher.</p> <p>10       Q. Right. But the goal behind it is to</p> <p>11       offset, to a degree, price increases that General</p> <p>12       Mills is experiencing?</p> <p>13       <b>A. No. The goal of hedging and risk</b></p> <p>14       <b>management is to mitigate risk and provide more</b></p> <p>15       <b>predictability, not to beat the market. It's a</b></p> <p>16       <b>nuance.</b></p> <p>17       Q. If you'll turn on this exhibit to page</p> <p>18       159, the Bates number ending 159, it says "dry egg</p> <p>19       prices" at the top.</p> <p>20       <b>A. Okay.</b></p> <p>21       Q. This shows Urner Barry pricing for</p> <p>22       different types of egg products from November 2000</p>

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<p style="text-align: center;">202</p> <p>1 Q. For General Mills it's been about five 2 years, right?</p> <p>3 A. <b>That's correct.</b></p> <p>4 Q. And do you know if for others it may 5 have been at least five years if not more?</p> <p>6 A. <b>Again, I don't know what other 7 companies --</b></p> <p>8 Q. Not even specific companies, but some 9 companies --</p> <p>10 A. <b>Have other -- have some companies been 11 able to get grain models --</b></p> <p>12 Q. Yes.</p> <p>13 A. <b>-- out there? Yeah, I would venture to 14 guess that there's probably other companies that 15 have been able to.</b></p> <p>16 Q. And do you think that goes back until at 17 least 2008, if not earlier?</p> <p>18 MR. CAMPBELL: Objection, speculation.</p> <p>19 A. <b>I don't know.</b></p> <p>20 BY MR. DAVIS:</p> <p>21 Q. Have you heard any rumors of companies 22 purchasing on grain-based models since 2008 or</p>	<p style="text-align: center;">204</p> <p>1 <b>Again, General Mills does not have direct insight 2 into other company's actual contracts.</b></p> <p>3 BY MR. DAVIS:</p> <p>4 Q. So that sentence may or may not be 5 accurate; is that fair?</p> <p>6 MR. CAMPBELL: Objection, lack of 7 foundation.</p> <p>8 A. <b>Yeah. I couldn't tell you.</b></p> <p>9 BY MR. DAVIS:</p> <p>10 Q. I'll show you what's been marked as 11 Exhibit 25.</p> <p>12 (Tran Exhibit 25 was 13 marked for 14 identification.)</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. If you turn in this document to the page 17 that ends in 1000 --</p> <p>18 A. <b>Is that --</b></p> <p>19 MR. CAMPBELL: We don't have a 1000.</p> <p>20 MR. DAVIS: Sorry. It's --</p> <p>21 THE WITNESS: "Egg strategy"?</p> <p>22 MR. CAMPBELL: Just show us the --</p>
<p style="text-align: center;">203</p> <p>1 earlier?</p> <p>2 A. <b>In 2008 there was not very many rumors 3 or chatter of people buying eggs on a grain model. 4 The only things that I've heard in the industry was 5 General Mills was one of the few that -- you know, 6 that were looking at this.</b></p> <p>7 Q. So is the sentence that I read from the 8 complaint about the trend of some large egg buyers 9 pure speculation?</p> <p>10 MR. CAMPBELL: Objection to form.</p> <p>11 A. <b>Can you ask it in a question? Can you 12 rephrase that?</b></p> <p>13 Q. Is the sentence -- I can read the 14 sentence. "The trend among some large buyers of 15 shell eggs and egg products in recent years is to 16 purchase based on a cost-based formula tied to 17 poultry feed (primarily corn and soybean meal) 18 costs."</p> <p>19 Is that speculative?</p> <p>20 A. <b>That is --</b></p> <p>21 MR. CAMPBELL: Objection.</p> <p>22 A. <b>That is what we hear in the industry.</b></p>	<p style="text-align: center;">205</p> <p>1 BY MR. DAVIS:</p> <p>2 Q. "Egg strategy. Adapting to a new 3 environment."</p> <p>4 A. <b>Okay.</b></p> <p>5 Q. There's an arrow pointing to 6 approximately October of 2006 that says "structural 7 changes in industry begin."</p> <p>8 A. <b>Mm-hmm.</b></p> <p>9 Q. Do you see that?</p> <p>10 A. <b>Yeah.</b></p> <p>11 Q. Do you know what that is referring to?</p> <p>12 A. <b>Oh, it could be a number of things. A 13 structural change that happened at that point in 14 time is in the feed industry the ethanol mandate 15 was put in place to blend corn into ethanol. And 16 it happened at that same time in 2006, which would 17 dramatically impact the cost of corn for egg 18 producers.</b></p> <p>19 Q. And therefore would it affect the price 20 of eggs?</p> <p>21 A. <b>It could affect the price of eggs, yes.</b></p> <p>22 That's one component.</p>

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<p style="text-align: center;">206</p> <p>1 Q. Are there other meanings for "structural 2 changes in industry"?</p> <p>3 <b>A. Some other structural changes could be 4 the consolidation that was going on and, you know, 5 suppliers getting out of the business, so --</b></p> <p>6 Q. Is it your testimony that that 7 structural change began in approximately October of 8 2006?</p> <p>9 <b>A. No. So I think that -- so for the 10 suppliers, supplier consolidation, that was going 11 on. It was probably happening before 2006, but 12 continued on through that time period.</b></p> <p>13 Q. So the structural change that began in 14 around October 2006 relates to the ethanol mandate 15 in the feed industry?</p> <p>16 <b>A. That's one of them, yeah.</b></p> <p>17 Q. You can put that aside. 18 What does General Mills use egg products 19 for?</p> <p>20 <b>A. We'll use egg products in baking mixes, 21 in ready bake doughs, in pastries, some breakfast 22 types of sandwiches in our offerings.</b></p>	<p style="text-align: center;">208</p> <p>1 MR. CAMPBELL: Objection. Implicit in 2 that question is a fact not in evidence.</p> <p>3 <b>A. Not always. You know, our products -- 4 there's multiple things in our products and in our 5 brands that elicit premium that isn't always 6 because of the egg that's deriving the premium 7 nature.</b></p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Well, I'll ask it this way. Is the 10 quality of an egg product something that is of 11 significance to General Mills when it makes 12 purchasing decisions?</p> <p>13 <b>A. It's one of the major components, yes.</b></p> <p>14 Q. And so what are the other components? 15 Price is one component?</p> <p>16 <b>A. Yes. Price, quality and service.</b></p> <p>17 Q. Service like reliability?</p> <p>18 <b>A. Yup.</b></p> <p>19 Q. Okay. Does General Mills ever do -- I 20 guess it would be R&amp;D testing to compare two 21 different producers' version of an egg product to 22 see which is preferable from a quality</p>
<p style="text-align: center;">207</p> <p>1 Q. They're components of finished products 2 that General Mills sells?</p> <p>3 <b>A. That's correct.</b></p> <p>4 Q. Does General Mills sell any egg 5 products?</p> <p>6 <b>A. No, we do not.</b></p> <p>7 Q. And does General Mills market its 8 finished products that contain egg products as 9 being superior in quality?</p> <p>10 <b>A. Superior in quality to what?</b></p> <p>11 Q. Or having a high quality?</p> <p>12 <b>A. Well, yeah. General Mills is a, you 13 know -- has a full suite of product lines ranging 14 from economical to premium. So in some cases our 15 products are premium end.</b></p> <p>16 Q. Do you think that superior product 17 quality is a principal strategy that General Mills 18 relies upon for competing?</p> <p>19 <b>A. It's a major component.</b></p> <p>20 Q. And does that superior product quality 21 depend on procuring inputs like egg products that 22 are superior in quality?</p>	<p style="text-align: center;">209</p> <p>1 perspective?</p> <p>2 <b>A. As far as consumer liking scores and 3 things of that nature? Like does one -- does a 4 consumer like one supplier's eggs over another 5 supplier's eggs?</b></p> <p>6 Q. It could be that. It could be that one 7 might work better in helping create a better 8 finished product.</p> <p>9 <b>A. General Mills will not look at that, you 10 know, consumer liking from one supplier to another 11 supplier. We won't do testing like that. We will 12 do testing on various types of specifications to 13 see which ones give us a better product and 14 consumer liking on that.</b></p> <p>15 <b>So for instance we might take different 16 mixes of egg white versus egg yolks and change up 17 those mixes to try to get a better product. But 18 that's on a specification standpoint and not from a 19 supplier standpoint.</b></p> <p>20 Q. So once you have the specifications set 21 you wouldn't say does the product that's provided 22 to us by producer X versus producer Y work better</p>

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<p>210</p> <p>1 in our finished product?</p> <p>2     <b>A. Generally once our specifications are</b>    3     <b>set then regardless of the supplier, whichever</b>    4     <b>supplier that we will do business with, they are</b>    5     <b>expected to hit that specification.</b></p> <p>6     Q. Okay. But you said the quality of the    7     egg product is one of the factors that General    8     Mills considers?</p> <p>9     <b>A. Yes.</b></p> <p>10    Q. So how does General Mills ascertain the    11    quality of that egg product?</p> <p>12    <b>A. The quality of the egg product is based</b>    13    <b>on our specification. The quality of the supplier,</b>    14    <b>though, is based on other factors as far as their</b>    15    <b>manufacturing practices, their -- you know, their</b>    16    <b>facilities and the cleanliness of their facilities</b>    17    <b>and their HASIP program type of things.</b></p> <p>18    Q. And that affects ultimately the product    19    that's being provided to General Mills, right?</p> <p>20    <b>A. It's a factor that could help it, yes.</b></p> <p>21    Q. So the products from all of these    22    suppliers are not identical, right? They're not</p>	<p>212</p> <p>1     <b>business with you.</b></p> <p>2     Q. But a supplier might able to meet your    3     specifications but still not pass your quality    4     screening or something like that, right?</p> <p>5     <b>A. Yes. That's a possibility.</b></p> <p>6     Q. So there's not fungibility between all    7     suppliers that can meet your specifications?</p> <p>8     <b>A. That's right.</b></p> <p>9     Q. Okay.</p> <p>10    <b>A. Yeah.</b></p> <p>11    Q. Did you ever seek competing quotes for    12    an egg product from more than one supplier?</p> <p>13    <b>A. Yes.</b></p> <p>14    Q. And were you given different price    15    quotes by different suppliers for the same egg    16    product?</p> <p>17    <b>A. Different delivered pricing, yes, we</b>    18    <b>could. We could get different price quotes based</b>    19    <b>on their facility, where they're located, what</b>    20    <b>their packaging costs look like, et cetera.</b></p> <p>21    Q. And would you use one producer's quote    22    to try to negotiate with a competing producer?</p>
<p>211</p> <p>1 fungible or homogenous; they're different?</p> <p>2     <b>A. No. They are fungible. So in any one</b>    3     <b>of our specifications we will have multiple</b>    4     <b>suppliers on one specification and we can move</b>    5     <b>between supplier A, B or C, as long as they hit our</b>    6     <b>specification.</b></p> <p>7     Q. And as long as their processing    8     facilities meet all of your different criteria?</p> <p>9     <b>A. Correct.</b></p> <p>10    Q. Which make them distinguishable from one    11    another? You care about who's providing you with    12    your egg products?</p> <p>13    <b>A. That's correct.</b></p> <p>14    Q. And so if you care about who's providing    15    you with your egg products, then this isn't -- I    16    don't understand how there's fungibility between    17    them.</p> <p>18    <b>A. There's fungibility between the</b>    19    <b>suppliers on our specifications. There is not</b>    20    <b>fungibility between suppliers that are not on our</b>    21    <b>specifications. So if you're not approved and your</b>    22    <b>facility is not approved, then we will not do</b></p>	<p>213</p> <p>1     <b>A. We would not tell them what the quote</b>    2     <b>is. So we would not divulge prices, price quotes,</b>    3     <b>that we would get from one supplier to another</b>    4     <b>supplier. But we would certainly give them</b>    5     <b>feedback, directional feedback, on if they were</b>    6     <b>high or low versus the competition. But we would</b>    7     <b>not divulge prices.</b></p> <p>8     Q. Would producers ever lower the price    9     that they had initially offered you based on the    10    fact that you had received a lower competing quote?</p> <p>11    <b>A. Yeah. There could be instances of that.</b>    12    We saw it here.</p> <p>13    Q. You're pointing to Exhibit 23?</p> <p>14    <b>A. Yeah. Exhibit 23, when Waldbaum or</b>    15    <b>Michael Foods lowered their costs because we were</b>    16    <b>looking for a new supplier.</b></p> <p>17    Q. So for a given egg product, how many    18    suppliers would General Mills consider as a viable    19    producer?</p> <p>20    <b>A. On any given specification, you know, we</b>    21    <b>would have two to three suppliers.</b></p> <p>22    Q. And why only two or three that were able</p>

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<p style="text-align: center;">214</p> <p>1 to meet General Mills' specification?</p> <p>2     <b>A. Two or three because, you know, there is</b>    3     <b>cost in expanding your supply base too far. That</b>    4     <b>just isn't reasonable. So we would have costs to</b>    5     <b>continually audit and maintain the records of</b>    6     <b>suppliers in our systems. So, you know, having ten</b>    7     <b>suppliers on one spec becomes costly and just</b>    8     <b>administratively burdensome.</b></p> <p>9     Q. I'll hand you what's been marked as    10    Exhibit 26.</p> <p>11               (Tran Exhibit 26 was    12               marked for    13               identification.)</p> <p>14     BY MR. DAVIS:</p> <p>15     Q. Exhibit 26 is an article that's dated    16    April 7th 2003, "General Mills gets creative to    17    save money."</p> <p>18     A. Yup.</p> <p>19     Q. If you turn to the second page there's a    20    paragraph that starts "in purchasing, for example."    21    I'll give you a moment if you want to read that.</p> <p>22     A. (Reading).</p>	<p style="text-align: center;">216</p> <p>1     Q. Did General Mills sell egg yolks?</p> <p>2     <b>A. No. General Mills is not an egg yolk or</b>    3     <b>egg seller.</b></p> <p>4     Q. So do you know what this is referring    5     to?</p> <p>6     A. Well, it's referring to how we looked at    7     our supply chain and looked at our partnerships    8     with our suppliers differentially so that we could    9     drive costs out. So in this case, you know, we    10    could do -- you know, when it's talking about    11    selling the yolks that could be where we had    12    negotiated in conjunction with a pasta producer    13    that's giving us our pasta material and doing    14    negotiations with an egg producer so that we're    15    both buying off of similar contracts which then    16    lowers our cost.</p> <p>17               We could be working with the egg    18               producer to ask them, well, what are they doing    19               with their shell eggs and is there an avenue for    20               them to actually sell that, which then drives    21               better conversion costs for them or, you know,    22               allows them to depreciate their assets faster</p>
<p style="text-align: center;">215</p> <p>1     Q. So this is as of 2003. Did General    2     Mills save \$10 million a year by buying whole eggs,    3     selling the yolks for pasta and the shells for    4     animal feed while using its grain trading    5     operations to get a better price on chicken feed    6     for its egg suppliers?</p> <p>7     MR. CAMPBELL: Objection, misstates what    8     the document says.</p> <p>9     <b>A. Can you restate the question?</b></p> <p>10    BY MR. DAVIS:</p> <p>11    Q. Sure. As of April 7, 2003, did General    12    Mills save \$10 million a year by buying the whole    13    egg, selling the yolks for pasta and the shells for    14    animal feed, while using its grain trading    15    operations to get a better price on chicken feed    16    for the egg supplier?</p> <p>17    <b>A. We did not -- we did not sell yolks or</b>    18    <b>shells for animal feed directly. General Mills</b>    19    <b>didn't do those types of activities. But, you</b>    20    <b>know, some of those activities could have been used</b>    21    <b>in conjunction with our suppliers, you know, to</b>    22    <b>drive costs out.</b></p>	<p style="text-align: center;">217</p> <p>1     because they're making money on shells that they    2     used to throw away, or are they just land filling    3     those shells and instead they could be selling it    4     to animal feed versus taking a cost on landfill    5     costs. Right?</p> <p>6     Q. So your negotiations with an egg    7     producer might involve a third party -- for    8     example, a pasta company -- that's going to buy    9     other egg components?</p> <p>10    <b>A. Yes. That could -- yeah.</b></p> <p>11    Q. And would that allow General Mills to    12    negotiate a better price than it would have absent    13    the participation of that third party company?</p> <p>14    <b>A. Not necessarily on our direct egg</b>    15    <b>purchases. But it could come through in our pasta</b>    16    <b>purchases.</b></p> <p>17    Q. So the company as a whole would save    18    money in the long-run?</p> <p>19    <b>A. Yeah. Yeah.</b></p> <p>20    Q. Because the price that it was paying for    21    eggs company-wide would decrease?</p> <p>22    <b>A. Because the price that the company paid</b></p>

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<p style="text-align: center;">218</p> <p>1   <b>for multiple raw materials would decrease, not just</b>      2   <b>eggs.</b></p> <p>3   Q. And is there any way to sever the price      4   of eggs from that more global price?</p> <p>5   A. <b>No. Not easily. You know, because in</b>      6   <b>the case of the third party we would help the</b>      7   <b>negotiations between the egg producer and the pasta</b>      8   <b>supplier, but we wouldn't necessarily know, you</b>      9   <b>know, what is the direct price that they're paying</b>      10   <b>either.</b></p> <p>11   Q. So do you know how this 10 million      12   figure was arrived at?</p> <p>13   A. <b>I don't know the full details of the 10</b>      14   <b>million.</b></p> <p>15   Q. It goes on to say that "General Mills      16   used its grain trading operations to get a better      17   price on chicken feed for the egg supplier." Do      18   you know what that's referring to?</p> <p>19   MR. CAMPBELL: You know, I'm going to      20   object to this that this is not a General Mills      21   document.</p> <p>22   MR. DAVIS: I didn't say that it was.</p>	<p style="text-align: center;">220</p> <p>1   <b>that we actually saw out of that I couldn't tell</b>      2   <b>you. But that might be -- that might be what it's</b>      3   <b>referring to.</b></p> <p>4   Q. Do you have any reason to think that      5   this \$10 million a year figure is inaccurate?</p> <p>6   A. <b>You know, I don't know how that \$10</b>      7   <b>million figure came about, so I don't have any</b>      8   <b>insights into it.</b></p> <p>9   Q. One more document and we'll take a      10   break. Actually, no. Why don't we take a quick      11   break now.</p> <p>12   MR. DAVIS: Five minutes?</p> <p>13   MR. CAMPBELL: All right.</p> <p>14   THE VIDEOGRAPHER: Off the record at      15   2:39 p.m.</p> <p>16   (Whereupon, a recess was taken from 2:39      17   p.m. to 2:49 p.m.)</p> <p>18   THE VIDEOGRAPHER: This is video      19   number 5 in the deposition of Binh Tran taken on      20   August 13th 2013. The time now is 2:49 p.m.</p> <p>21   BY MR. DAVIS:</p> <p>22   Q. Mr. Tran, I'd ask you to turn back to</p>
<p style="text-align: center;">219</p> <p>1   MR. CAMPBELL: And also it's not Bates      2   numbered. Have you produced this?</p> <p>3   MR. DAVIS: This is a publicly available      4   document.</p> <p>5   MR. CAMPBELL: I don't care. You're      6   required to produce publicly available documents.      7   You have not produced it, in other words?</p> <p>8   MR. DAVIS: This document has not been      9   produced.</p> <p>10   MR. CAMPBELL: Okay.</p> <p>11   A. <b>Your question again?</b></p> <p>12   BY MR. DAVIS:</p> <p>13   Q. The document goes on to say that      14   "General Mills used its grade trading operations to      15   get a better price on chicken feed for the egg      16   supplier." Do you know what that's referring to?</p> <p>17   A. <b>You know, we could have helped the egg</b>      18   <b>producer, you know, source better grain somewhere</b>      19   <b>or give them insights into what cash market grains</b>      20   <b>are doing that helped them lower -- that helped</b>      21   <b>them lower their costs.</b></p> <p>22   Now, how much of a -- how much savings</p>	<p style="text-align: center;">221</p> <p>1   Exhibit 18.</p> <p>2   A. <b>Okay.</b></p> <p>3   Q. You can turn to the page that ends in      4   673. It's the June 2007 presentation.</p> <p>5   A. <b>"European liquid egg prices"?</b></p> <p>6   Q. Yes.</p> <p>7   A. <b>Okay.</b></p> <p>8   Q. It provides a chart from July of 1999      9   through March of 2007 that compares European liquid      10   egg prices with U.S. liquid egg prices. Do you see      11   that?</p> <p>12   A. <b>Yes.</b></p> <p>13   Q. And is it fair to say that these two      14   prices generally track one another?</p> <p>15   A. <b>Yes, they do.</b></p> <p>16   Q. And you'll notice this line, this      17   vertical line in November of 2002?</p> <p>18   A. <b>Yes.</b></p> <p>19   Q. The gray line there are EU liquid eggs.      20   So that's the European price, right?</p> <p>21   A. <b>Yes.</b></p> <p>22   Q. And it looks like just prior to this, so</p>

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<p style="text-align: center;">222</p> <p>1 sometime maybe in the fall of 2002, that price      2 started to increase and then the U.S. price      3 increased maybe about nine months later starting in      4 like July of 2003. Do you see that?</p> <p><b>A. Yes.</b></p> <p>Q. Does General Mills have any view on whether or not these prices are at all related to one another, the European price and the U.S. price?</p> <p><b>A. Can you clarify what you mean by related?</b></p> <p>Q. Sure. Are there any common factors that would affect both the U.S. price and the European price?</p> <p><b>A. Yeah. The common factors would be grain costs across the world. You know, any major disease outbreaks that are happening in various parts of world could also contribute, contribute to prices.</b></p> <p>Q. And would those explain at least in part why these prices tend to track one another?</p> <p><b>A. It could explain parts of it.</b></p> <p>Q. Are there other explanations for it?</p>	<p style="text-align: center;">224</p> <p>1 <b>but maybe probably exports from -- or imports into Europe from other countries also.</b>      2 Q. And how is that at all related to the U.S. domestic price?</p> <p><b>A. How is it related to the U.S. domestic price?</b></p> <p>Q. How would exports from another country into Europe be related to the U.S. domestic supply of eggs?</p> <p><b>A. It could impact it because it ultimately impacts demand. So if demand is not there then it could dry up exports in one country versus another.</b></p> <p>Q. If demand is not there where?</p> <p><b>A. In Europe. So if European demand for -- if Europe is getting eggs from some other country, there's importation from some other country, then the demand for U.S. imports could dry up, which then could impact U.S. prices.</b></p> <p>Q. Okay. But what my question was was whether or not U.S. supply would affect European prices.</p> <p><b>A. It could, if you have -- if you have</b></p>
<p style="text-align: center;">223</p> <p><b>A. I don't know. I guess diets and just overall consumption, population growth could be some other factors. You know, economic conditions that, you know, lead to wealth creation.</b></p> <p>Q. How about the U.S. domestic supply of the eggs? Would that have an effect on European pricing?</p> <p>MR. CAMPBELL: Objection, lack of foundation.</p> <p><b>A. Yeah. Could you ask your question in a different way?</b></p> <p>BY MR. DAVIS:</p> <p>Q. Sure. Does General Mills have any reason to believe that the United States domestic supply of eggs would have any effect on European pricing for liquid eggs?</p> <p><b>A. You know, I guess the imports -- the exports of eggs out of the U.S. could have an impact on European prices.</b></p> <p>Q. And how so?</p> <p><b>A. If it's up or down that could raise or lower the prices, not just from a U.S. standpoint,</b></p>	<p style="text-align: center;">225</p> <p><b>excess supply in the U.S. then, you know, does U.S. producers ship that excess supply to other countries, you know, that's going to affect the prices in Europe.</b></p> <p>Q. By driving them down?</p> <p><b>A. That's correct.</b></p> <p>Q. So if the price in Europe is going up how could that be related to U.S. domestic supply?</p> <p>MR. CAMPBELL: Objection, lack of foundation.</p> <p><b>A. If prices are going up I think there's more than -- if prices are going up and there is excess supply in the U.S., there could be other reasons than just supply that's driving prices up. So I think there's more to this chart from a fundamentals standpoint that is going on than what's shown on the chart.</b></p> <p>BY MR. DAVIS:</p> <p>Q. Sure. I'm just trying to understand if U.S. domestic supply in General Mills' view could be at all related to this increase in European pricing that looks like it started around mid 2002.</p>

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<p style="text-align: center;">226</p> <p>1       <b>A. If there was excess supplies driving 2       prices upwards?</b></p> <p>3       Q. Just anything about U.S. supply.</p> <p>4       <b>A. I think that there's probably something 5       else that was going on in 2002 than excess supply.</b></p> <p>6       Q. Not excess supply. Anything related to 7       supply.</p> <p>8       <b>A. Supply in the U.S.?</b></p> <p>9       Q. Yes.</p> <p>10      <b>A. Possibly.</b></p> <p>11      Q. And how could supply in the U.S. 12     possibly be affecting the European price in mid 13     2002?</p> <p>14      <b>A. If they cut off exports that could drive 15     prices in Europe upwards.</b></p> <p>16      Q. If the U.S. cut off exports?</p> <p>17      <b>A. That's right.</b></p> <p>18      Q. Can you think of any other way?</p> <p>19      <b>A. Not as it relates to U.S. supply.</b></p> <p>20      Q. You can put that aside. 21      We talked about criteria that General 22     Mills looks at and has looked at in its purchase of</p>	<p style="text-align: center;">228</p> <p>1       Q. Is General Mills aware of efforts by any 2       advocacy group to change or otherwise modify 3       General Mills' egg procurement practices?</p> <p>4       <b>A. We have not had any requests from 5       advocacy groups to change up our practices.</b></p> <p>6       Q. Have you requests from any purchasers of 7       eggs or egg products?</p> <p>8       <b>A. Any purchasers? Can you define 9       purchasers of eggs?</b></p> <p>10      Q. Yeah. A large purchaser, like a 11     retailer, for example.</p> <p>12      <b>A. Okay. Like a --</b></p> <p>13      MR. CAMPBELL: You asked about eggs and 14     egg products. They don't sell eggs and egg 15     products. They sell products which contain them. 16     So the question really is have any of their 17     purchase -- and people who buy General Mills 18     products which contain egg products pressured. 19     Right?</p> <p>20      I just -- that's why he was unclear on 21     that question, because I think it was phrased a 22     little ineloquently. Just reask it, Evan. I'm not</p>
<p style="text-align: center;">227</p> <p>1       egg products. Is animal welfare among the criteria 2       that General Mills considers?</p> <p>3       <b>A. In deciding who we do business with?</b></p> <p>4       Q. In deciding what egg products it 5       purchases.</p> <p>6       <b>A. No. Animal welfare was not a 7       consideration in who or what we buy.</b></p> <p>8       Q. And that's been true for the history of 9       your tenure in the company?</p> <p>10      <b>A. Yes, it is, for eggs.</b></p> <p>11      Q. How about for other animal products?</p> <p>12      <b>A. For other animal products. For other 13     animal products there has been -- you know, there 14     has been some issues there that we have changed up 15     our specifications for.</b></p> <p>16      Q. What are those?</p> <p>17      <b>A. Things in dairy as it pertains to like 18     hormones, hormones that are injected into the cows. 19     We've gone RSBT free on a lot of our dairy 20     products.</b></p> <p>21      Q. Anything else come to mind?</p> <p>22      <b>A. No.</b></p>	<p style="text-align: center;">229</p> <p>1       objecting. He's obviously confused.</p> <p>2       BY MR. DAVIS:</p> <p>3       Q. Have you had any -- has General Mills 4       had any requests from purchasers of General Mills 5       products to change or otherwise modify your egg 6       procurement practices?</p> <p>7       <b>A. Due to animal welfare issues, you're 8       asking?</b></p> <p>9       Q. Okay.</p> <p>10      <b>A. Right? No, we have not had any requests 11     by our customers to change our purchasing 12     practices.</b></p> <p>13      Q. Or by any retailer that you're aware of?</p> <p>14      <b>A. Yes. Or by any retailer.</b></p> <p>15      Q. Are you aware of United Poultry concerns 16     or Compassion Over Killing or PETA ever making any 17     overtures towards General Mills to change or modify 18     your egg procurement practices?</p> <p>19      <b>A. We have not had any requests by those 20     organizations to change our practices.</b></p> <p>21      Q. Does General Mills source cage-free 22     eggs?</p>

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<p style="text-align: center;">230</p> <p>1       <b>A. We do not source any cage-free eggs in</b>  2       <b>the U.S. here.</b></p> <p>3       Q. I'll show you what's been marked as  4       Exhibit 27.</p> <p>5                     (Tran Exhibit 27 was  6                     marked for  7                     identification.)</p> <p>8       BY MR. DAVIS:</p> <p>9       Q. Exhibit 27 is a printout from the  10      General Mills website. It was made on July 30th  11      2013.</p> <p>12      <b>A. Mm-hmm.</b></p> <p>13      Q. Under egg production do you see it says  14      "We acknowledge the discussion about egg production  15      and the impact on egg-laying hens"?</p> <p>16      <b>A. Yup.</b></p> <p>17      Q. What does that line mean?</p> <p>18      <b>A. I think it's in relation to the</b>  19      <b>paragraph below it.</b></p> <p>20      MR. CAMPBELL: Where are you reading  21      from, Evan? I missed that. I'm sorry.</p> <p>22      MR. DAVIS: I said right under egg</p>	<p style="text-align: center;">232</p> <p>1       Q. Yes?</p> <p>2       <b>A. Yes.</b></p> <p>3       MR. CAMPBELL: What number is that,  4       Evan?</p> <p>5       MR. DAVIS: I'm sorry?</p> <p>6       MR. CAMPBELL: Exhibit Number.</p> <p>7       THE WITNESS: 27.</p> <p>8       MR. CAMPBELL: Okay. Thank you.</p> <p>9       BY MR. DAVIS:</p> <p>10      Q. You can put that aside.  11      Is General Mills familiar with what's  12      known as the UEP certified program?</p> <p>13      <b>A. We'd know of the -- we know of the</b>  14      <b>program.</b></p> <p>15      Q. And what's the company's understanding  16      of the UEP certified program?</p> <p>17      <b>A. Just in very general terms, humane</b>  18      <b>treatment of animals and the husbandry practices of</b>  19      <b>chickens.</b></p> <p>20      Q. Does General Mills support the  21      maintenance of the UEP certified program?</p> <p>22      <b>A. We don't really have a position on the</b></p>
<p style="text-align: center;">231</p> <p>1       production.</p> <p>2       MR. CAMPBELL: Ah. Okay. Fine.</p> <p>3       BY MR. DAVIS:</p> <p>4       Q. Sorry. You were saying?</p> <p>5       <b>A. So that sentence is in relation to the</b>  6       <b>paragraph below it.</b></p> <p>7       Q. Which talks about Haagen-Dazs?</p> <p>8       <b>A. Yes.</b></p> <p>9       Q. The paragraph below that one reference  10      the purchase of one million eggs from cage-free  11      hens. Do you see that?</p> <p>12      <b>A. Yes.</b></p> <p>13      Q. Do you know if that's accurate?</p> <p>14      <b>A. That is an exploration. So we started</b>  15      <b>the exploration in 2012 to start sometime this</b>  16      <b>year.</b></p> <p>17      Q. So this says that "General Mills  18      purchased 1 million eggs from cage-free hens for  19      our U.S. operations in 2012." Is that accurate?</p> <p>20      <b>A. No. That was the exploration.</b></p> <p>21      Q. So it's inaccurate?</p> <p>22      <b>A. Yeah.</b></p>	<p style="text-align: center;">233</p> <p>1       <b>UEP program.</b></p> <p>2       Q. The company takes no position on the UEP  3       certified program?</p> <p>4       <b>A. No, we don't.</b></p> <p>5       Q. The company does not advocate for the  6       elimination of the certified program?</p> <p>7       <b>A. No, we don't. We don't have an opinion.</b></p> <p>8       Q. Does General Mills have an opinion on  9       the amount of the cage space that should be  10      afforded to egg-laying hens?</p> <p>11      <b>A. Can you ask your question again?</b></p> <p>12      MR. DAVIS: Can you read that back?  13      (Whereupon, the requested portion of  14      testimony was read back by the reporter.)</p> <p>15      <b>A. We don't have any specific specification</b>  16      <b>or opinion on the sizes of egg laying production.</b></p> <p>17      BY MR. DAVIS:</p> <p>18      Q. Do you believe that there is a minimum  19      space that should be afforded to egg-laying hens?</p> <p>20      <b>A. Are you asking me personally?</b></p> <p>21      Q. Does the company?</p> <p>22      <b>A. Does General Mills have an opinion --</b></p>

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<p style="text-align: right;">238</p> <p>1       <b>A. It would appear like it.</b></p> <p>2       Q. Does General Mills have any reason to 3       believe that this letter was not received by Mr. 4       Sanger?</p> <p>5       <b>A. I wouldn't think so.</b></p> <p>6       Q. If you look at the third paragraph, 7       second sentence, it says "Last summer we unveiled 8       new animal welfare guidelines that introduce 9       sweeping changes to how eggs are producing in 10      America." Do you guess sentence?</p> <p>11      <b>A. Yes.</b></p> <p>12      Q. And then in the next paragraph, fourth 13      line down, "These guidelines are based on 14      science -- not emotion -- and place top priority or 15      the comfort, health and safety of the chickens, 16      including increased cage space per hen, standards 17      for water, feed and air quality; and standards for 18      care and handling procedures." Do you see that?</p> <p>19      <b>A. Yes.</b></p> <p>20      Q. Do you have any reason to think that as 21      of February 25th 2003 or shortly thereafter General 22      Mills was not aware of the fact that UEP's</p>	<p style="text-align: right;">240</p> <p>1       something that came from counsel --</p> <p>2       MR. CAMPBELL: That's correct. That's 3       what you and I agreed to, Evan, in the meet and 4       confer.</p> <p>5       MR. DAVIS: Okay.</p> <p>6       MR. CAMPBELL: Okay? So if he has 7       knowledge outside of that then he may answer.</p> <p>8       MR. DAVIS: Well, I'm not asking him 9       upon what his -- this is just a preliminarily 10      question of whether or not that's their allegation. 11      So perhaps he can answer this with a yes or no.</p> <p>12      MR. CAMPBELL: Well, that's not how I 13      read the question. Jon, do you want to try that 14      again?</p> <p>15      (Whereupon, the requested portion of 16      testimony was read back by the reporter.)</p> <p>17      MR. CAMPBELL: Same objection. The 18      knowledge he's gained with respect to the answer to 19      that question is derived from communications with 20      counsel. So I instruct you not to answer the 21      question.</p> <p>22      MR. DAVIS: You won't let him answer the</p>
<p style="text-align: right;">239</p> <p>1       guidelines called for increased cage space per hen?</p> <p>2       <b>A. No. We wouldn't have any reason to 3       think that they didn't do that, that UEP didn't do 4       that.</b></p> <p>5       Q. So this letter informs General Mills of 6       that component of the guidelines, correct?</p> <p>7       <b>A. Yeah.</b></p> <p>8       Q. You can put that aside.</p> <p>9       In this litigation is General Mills 10      alleging that egg producers conspired to reduce the 11      supply of eggs?</p> <p>12      MR. CAMPBELL: Just a minute. What was 13      the question? Would you read the question, please, 14      Jon?</p> <p>15      (Whereupon, the requested portion of 16      testimony was read back by the reporter.)</p> <p>17      MR. CAMPBELL: I object and instruct him 18      not to answer to the extent that any knowledge 19      General Mills has is a result of communications 20      with General Mills' counsel.</p> <p>21      MR. DAVIS: So to be clear, your 22      instruction is that if his knowledge is a result of</p>	<p style="text-align: right;">241</p> <p>1       question?</p> <p>2       MR. MONICA: This is John Monica for 3       Rose Acre Farms. You're instructing him not to 4       answer what the contention is with litigation about 5       the conspiracy?</p> <p>6       MR. CAMPBELL: Yes.</p> <p>7       MR. DAVIS: You won't let him answer yes 8       or no to that question?</p> <p>9       MR. CAMPBELL: I said to the extent he 10      knows the answer individually from other sources 11      than communications with counsel, he may answer. 12      Okay? But that's not my understanding of what you 13      asked.</p> <p>14      MR. DAVIS: My question, which did not 15      exclude any form from where you would obtain this 16      opinion is a yes or no answer to the question that 17      was posed. So if you're instructing him not to 18      answer that, that's fine.</p> <p>19      MR. CAMPBELL: No. He can answer that 20      if the knowledge -- if he has some basis other than 21      communications with counsel to answer that 22      question.</p>

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<p style="text-align: center;">242</p> <p>1           MR. DAVIS: Even in a yes or no 2 foundation?</p> <p>3           MR. CAMPBELL: I said he can answer it.</p> <p>4           MR. DAVIS: If that's your instruction, 5 that's your instruction.</p> <p>6           MR. CAMPBELL: The issue is do you know 7 whether General Mills is alleging that the egg 8 producers agreed to reduce supply; and if you know 9 the answer to that question, do you have some basis 10 for the answer to that question other than 11 communications with counsel?</p> <p>12          THE WITNESS: Yeah.</p> <p>13          <b>A. My knowledge of it is what is in the 14 complaint. Beyond that it's the communication that 15 I've had with counsel.</b></p> <p>16          BY MR. DAVIS:</p> <p>17          Q. Okay. Outside of your communications 18 with counsel -- not your. Outside of anyone at 19 General Mills' communications with counsel, what 20 basis does General Mills have for an allegation 21 that egg producers conspired to reduce the supply 22 of eggs?</p>	<p style="text-align: center;">244</p> <p>1           what he said.</p> <p>2          <b>A. Yeah. General Mills -- well, can you 3 ask the question again?</b></p> <p>4          MR. DAVIS: Can you read that back? 5                           (Whereupon, the requested portion of 6 testimony was read back by the reporter.)</p> <p>7          <b>A. General Mills did not do any 8 investigation independently into any conspiracy by 9 the industry, you know. So no, we didn't do any 10 independent research into these things, into these 11 matters.</b></p> <p>12          BY MR. DAVIS:</p> <p>13          Q. So my question is not whether or not the 14 company did any independent research. My question 15 is whether or not General Mills has any information 16 supporting its allegations other than what was 17 given to it by counsel?</p> <p>18          <b>A. No. What we have was through counsel.</b></p> <p>19          Q. Exclusively?</p> <p>20          <b>A. Right. Correct.</b></p> <p>21          Q. Other than -- well, strike that. 22                           When you say from counsel, is that</p>
<p style="text-align: center;">243</p> <p>1           MR. CAMPBELL: I object. It's been 2 asked and answered. He just answered that 3 question.</p> <p>4          BY MR. DAVIS:</p> <p>5          Q. Well, the question is very different, 6 but you can give whatever answer you'd like.</p> <p>7          <b>A. The question sounds the same to me, you 8 know. So what I know of that is filed in the 9 complaint and what we've discussed with our 10 counsel.</b></p> <p>11          Q. Is everything that's alleged in the 12 complaint something that was learned from counsel 13 or are there any facts in the complaint that were 14 learned by General Mills from a source other than 15 counsel?</p> <p>16          <b>A. No. Those are learned by -- from 17 counsel.</b></p> <p>18          Q. So General Mills has no independent 19 knowledge of any alleged conspiracy by egg 20 producers aside from what was told to the company 21 by its outside counsel, Jenner &amp; Block?</p> <p>22          MR. CAMPBELL: Objection. That wasn't</p>	<p style="text-align: center;">245</p> <p>1           exclusively referred to attorneys from Jenner &amp; 2 Block?</p> <p>3          <b>A. Yes.</b></p> <p>4          Q. I'll show you what's been marked as 5 Exhibit 29. 6                           (Tran Exhibit 29 was 7 marked for 8 identification.)</p> <p>9          BY MR. DAVIS:</p> <p>10         Q. Do you recognize this document?</p> <p>11         <b>A. This looks like a facilities audit 12 checklist.</b></p> <p>13         Q. For an egg producer?</p> <p>14         <b>A. Not just egg producers. Just in 15 general, anybody.</b></p> <p>16         Q. Well, if you turn to the third page 17 under raw materials, D6 talks about unprocessed 18 eggs, D7 talks about unprocessed eggs, down toward 19 the bottom, F9 talks about a USDA grader, F4 talks 20 about egg wash water temperature.</p> <p>21         <b>A. Mm-hmm.</b></p> <p>22         Q. So do you think this -- is this</p>

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<p style="text-align: center;">246</p> <p>1 checklist applicable to eggs specifically?</p> <p>2     <b>A. Those questions are specifically for</b></p> <p>3     <b>eggs.</b></p> <p>4     Q. And so the checklist as a whole would be</p> <p>5     used for an egg producer; is that right?</p> <p>6     <b>A. Yeah. The checklist as a whole, for egg</b></p> <p>7     <b>producers.</b></p> <p>8     Q. And who created this checklist?</p> <p>9     <b>A. This would be out of our quality and</b></p> <p>10     <b>regulatory group.</b></p> <p>11     Q. For how long has General Mills had</p> <p>12     checklists like this?</p> <p>13     <b>A. Decades.</b></p> <p>14     Q. I'll show you what's been marked as</p> <p>15     Exhibit 30.</p> <p>16                 (Tran Exhibit 30 was</p> <p>17                 marked for</p> <p>18                 identification.)</p> <p>19     BY MR. DAVIS:</p> <p>20     Q. Exhibit 30 is an e-mail to you from Dean</p> <p>21     Hughson. Who is Dean Hughson?</p> <p>22     <b>A. Dean Hughson was a -- like a consultant</b></p>	<p style="text-align: center;">248</p> <p>1     <b>A. How long they've received this</b></p> <p>2     <b>particular report?</b></p> <p>3     Q. Or producers in general.</p> <p>4     <b>A. From Dean Hughson we would receive</b></p> <p>5     <b>things from him probably back to, you know, the</b></p> <p>6     <b>Scott Wolf days most likely.</b></p> <p>7     Q. So when was that approximately?</p> <p>8     <b>A. '99.</b></p> <p>9     Q. And how about reports from Don Bell?</p> <p>10     <b>A. Don Bell, not very -- we really wouldn't</b></p> <p>11     <b>receive stuff from Don Bell.</b></p> <p>12     Q. Well, you did at least once, right?</p> <p>13     <b>A. We got this from Dean Hughson, so we</b></p> <p>14     <b>got -- we probably got this once.</b></p> <p>15     Q. Dean Hughson to your knowledge never</p> <p>16     sent the company any other reports from Don Bell?</p> <p>17     <b>A. No. Not that I know of.</b></p> <p>18     Q. Did anyone else ever send the company</p> <p>19     reports from Don Bell?</p> <p>20     <b>A. No.</b></p> <p>21     Q. Do you know why he sent this to General</p> <p>22     Mills?</p>
<p style="text-align: center;">247</p> <p>1     <b>to various people in the egg industry.</b></p> <p>2     Q. And you'll see that it's attaching a</p> <p>3     document called "Summary of flock size and egg</p> <p>4     price projections prepared by Don Bell." Do you</p> <p>5     see that?</p> <p>6     <b>A. Yes.</b></p> <p>7     Q. Do you know who Don Bell is?</p> <p>8     <b>A. I don't know who Don Bell is.</b></p> <p>9     Q. So is Dean Hughson employed by -- is he</p> <p>10     self-employed?</p> <p>11     <b>A. I'm not sure how his employment in the</b></p> <p>12     <b>industry works.</b></p> <p>13     Q. Does General Mills contract with him?</p> <p>14     <b>A. No, we do not.</b></p> <p>15     Q. He provides this General Mills for free?</p> <p>16     <b>A. Yeah.</b></p> <p>17     Q. For how long has General Mills received</p> <p>18     reports from Dean Hughson?</p> <p>19     <b>A. We will receive things from him on an ad</b></p> <p>20     <b>hoc basis.</b></p> <p>21     Q. Do you know how far back General Mills</p> <p>22     has received reports from him?</p>	<p style="text-align: center;">249</p> <p>1     <b>A. I don't know why. You know, Dean</b></p> <p>2     <b>Hughson would send various things, some of them not</b></p> <p>3     <b>really value added and some of them just</b></p> <p>4     <b>interesting tidbits to -- in some cases just</b></p> <p>5     <b>shooting us e-mails on how his weekend was.</b></p> <p>6     Q. I'll show you what's been marked as</p> <p>7     Exhibit 31.</p> <p>8                 (Tran Exhibit 31 was</p> <p>9                 marked for</p> <p>10                 identification.)</p> <p>11     BY MR. DAVIS:</p> <p>12     Q. Exhibit 31 is a February 2007 edition of</p> <p>13     United Voices. Are you familiar with United</p> <p>14     Voices?</p> <p>15     <b>A. I'm not.</b></p> <p>16     Q. Do you know how General Mills obtained</p> <p>17     this document?</p> <p>18     <b>A. I do not know.</b></p> <p>19     Q. Have you ever seen a version of United</p> <p>20     Voices before?</p> <p>21     <b>A. No, I have not.</b></p> <p>22     Q. Do you know whether anyone at General</p>

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<p>1           A. Mm-hmm.</p> <p>2           Q. And what about that?</p> <p>3           <b>A. That animal welfare will be, you know,</b></p> <p>4           <b>something that could impact the industry and it's</b></p> <p>5           <b>something that they're closely watching, you know,</b></p> <p>6           <b>that could affect their operations.</b></p> <p>7           Q. I'll show you what's been marked as</p> <p>8           Exhibit 33.</p> <p>9                         (Tran Exhibit 33 was</p> <p>10                       marked for</p> <p>11                       identification.)</p> <p>12           BY MR. DAVIS:</p> <p>13           Q. This is an e-mail from Dave Rettig at</p> <p>14           Rembrandt to you, September 23rd 2008. Do you</p> <p>15           recall receiving this e-mail?</p> <p>16           <b>A. Yeah.</b></p> <p>17           Q. Do you know if -- why Dave Rettig wrote</p> <p>18           this e-mail to you? Was this in response to</p> <p>19           something that you had asked him?</p> <p>20           <b>A. No, it's not. He wrote this e-mail in</b></p> <p>21           <b>response to publications, public publications about</b></p> <p>22           <b>collusion, and he was providing his thoughts.</b></p>	<p>1           the -- personally the case is still going on. So</p> <p>2           personally until there's a conclusion I don't have</p> <p>3           an opinion.</p> <p>4           Q. So as of today you have no opinion on</p> <p>5           whether or not the collusion idea makes any sense?</p> <p>6           <b>A. Yeah. Personally.</b></p> <p>7           Q. Okay. And does General Mills have an</p> <p>8           opinion on that?</p> <p>9           <b>A. Other than what is alleged in the</b></p> <p>10           <b>complaint. That's our opinion.</b></p> <p>11           Q. And do you think that -- does General</p> <p>12           Mills' opinion as alleged in the complaint disagree</p> <p>13           with Dave Rettig's idea that the collusion idea</p> <p>14           doesn't make a lot of sense?</p> <p>15           MR. CAMPBELL: Objection. He doesn't</p> <p>16           know what Mr. Rettig meant by that. But you can</p> <p>17           answer that, Binh.</p> <p>18           THE WITNESS: Yeah.</p> <p>19           <b>A. I don't know exactly what he's trying to</b></p> <p>20           <b>get at. He's probably trying to make a point. You</b></p> <p>21           <b>know, he certainly has his opinions. But, you</b></p> <p>22           <b>know, those are his opinions.</b></p>
<p>1           Q. So if you look at the first sentence it</p> <p>2           starts out "From the outside the collusion idea</p> <p>3           doesn't make a lot of sense to me in the industrial</p> <p>4           segment." Do you see that?</p> <p>5           <b>A. Yeah.</b></p> <p>6           Q. And then he explains why that is. Do</p> <p>7           you agree with Mr. Rettig?</p> <p>8           <b>A. Personally? Or --</b></p> <p>9           Q. Personally.</p> <p>10           <b>A. You know, I don't really have an</b></p> <p>11           <b>opinion. That's his opinion on the subject. I</b></p> <p>12           <b>don't have an opinion on that, on his point there.</b></p> <p>13           Q. So you have no reason to agree with his</p> <p>14           opinion?</p> <p>15           <b>A. Yeah. I don't have any reason to agree</b></p> <p>16           <b>or disagree with his opinion at this time, of this</b></p> <p>17           <b>date.</b></p> <p>18           Q. How about as of this date, now, today?</p> <p>19           <b>A. As of this date that's looking backwards</b></p> <p>20           <b>then, isn't it?</b></p> <p>21           Q. Sure.</p> <p>22           <b>A. So, you know, I think that right now</b></p>	<p>1           255</p> <p>1           Q. So if you look at the first sentence it</p> <p>2           starts out "From the outside the collusion idea</p> <p>3           doesn't make a lot of sense to me in the industrial</p> <p>4           segment." Do you see that?</p> <p>5           <b>A. Yeah.</b></p> <p>6           Q. And then he explains why that is. Do</p> <p>7           you agree with Mr. Rettig?</p> <p>8           <b>A. Personally? Or --</b></p> <p>9           Q. Personally.</p> <p>10           <b>A. You know, I don't really have an</b></p> <p>11           <b>opinion. That's his opinion on the subject. I</b></p> <p>12           <b>don't have an opinion on that, on his point there.</b></p> <p>13           Q. So you have no reason to agree with his</p> <p>14           opinion?</p> <p>15           <b>A. Yeah. I don't have any reason to agree</b></p> <p>16           <b>or disagree with his opinion at this time, of this</b></p> <p>17           <b>date.</b></p> <p>18           Q. How about as of this date, now, today?</p> <p>19           <b>A. As of this date that's looking backwards</b></p> <p>20           <b>then, isn't it?</b></p> <p>21           Q. Sure.</p> <p>22           <b>A. So, you know, I think that right now</b></p> <p>1           257</p> <p>1           BY MR. DAVIS:</p> <p>2           Q. Yes, they are. And I'm asking whether</p> <p>3           or not General Mills agrees or disagrees with his</p> <p>4           opinion.</p> <p>5           MR. CAMPBELL: Asked and answered.</p> <p>6           <b>A. We don't have an opinion on Dave</b></p> <p>7           <b>Rettig's comments here.</b></p> <p>8           BY MR. DAVIS:</p> <p>9           Q. Okay. If you look at the fifth</p> <p>10           paragraph he says "I also think that the reduction</p> <p>11           in birds per cage has been a major contributor to</p> <p>12           price increases (along with grain prices), but that</p> <p>13           was done largely at the behest of the retailers:</p> <p>14           Wal-Marts, Albertsons, SuperValu, et cetera, to get</p> <p>15           ahead of the animal welfare protestors." Do you</p> <p>16           see that?</p> <p>17           <b>A. Yes.</b></p> <p>18           Q. And do you agree with his view that any</p> <p>19           reduction in birds per cage was done largely at the</p> <p>20           behest of retailers?</p> <p>21           <b>A. I don't know if Waldbaum or Albertsons</b></p> <p>22           <b>or the retailers had asked or requested the</b></p>

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<p style="text-align: center;">258</p> <p>1      industry to reduce eggs -- you know, cage sizes. I      2      don't know what their strategies were or their      3      interactions were with the industry.      4      Q. So General Mills is not aware of any      5      retailer advocating for an increase in cage space      6      allotted to egg-laying hens?      7      A. No. We're not aware of any.      8      Q. I'll show you what's been marked as      9      Exhibit 34.      10     (Tran Exhibit 34 was      11       marked for      12       identification.)      13     BY MR. DAVIS:      14     Q. Exhibit 34 is a letter that was produced      15     by General Mills on the letterhead of Harris      16     Teeter.      17     A. You said that we produced this? Like we      18     wrote this letter?      19     Q. No. Produced, meaning that it was      20     provided to defendants by General Mills.      21     A. Oh, okay.      22     Q. Are you familiar at all with this</p>	<p style="text-align: center;">260</p> <p>1      cage-free eggs?      2      A. Yes.      3      Q. And does this letter revise your      4      testimony?      5      MR. CAMPBELL: I think his testimony was      6      he was not aware.      7      MR. DAVIS: His testimony was what it      8      was.      9      BY MR. DAVIS:      10     Q. But what is your testimony now?      11     A. Well, in 2011 if Harris Teeter is a      12       customer of General Mills then certainly in 2011      13       there is a request to look at using cage-free eggs.      14     Q. Now, you testified that General Mills      15     has not in fact started to source cage-free eggs;      16     is that correct?      17     A. We started exploring it. This year we      18     will be buying some of that. In 2013.      19     Q. How much?      20     A. It's about a million eggs or so.      21     Q. Does General Mills intend to revise its      22     website before that point in time to correct what</p>
<p style="text-align: center;">259</p> <p>1      letter?      2      MR. CAMPBELL: I'm going to object to      3      this. This is far outside the relevant time frame.      4      We've had this discussion. And I think it entirely      5      improper to ask about 2011 non-transactional      6      documents.      7      MR. DAVIS: Sure. So the witness      8      earlier testified that he --      9      MR. CAMPBELL: I'm going to let him      10     answer it, Evan. I'm just making an objection.      11     MR. DAVIS: Certainly. I disagree with      12     your objection.      13     MR. CAMPBELL: What's the question      14     again, Jon? Would you read it back?      15     (Whereupon, the requested portion of      16     testimony was read back by the reporter.)      17     A. Personally, I'm not familiar with the      18     letter.      19     BY MR. DAVIS:      20     Q. And was it your testimony earlier that      21     General Mills was not aware of any retailers of its      22     products advocating for General Mills to use</p>	<p style="text-align: center;">261</p> <p>1      you earlier described as an inaccurate statement?      2      A. Yeah. If we're behind on our schedules      3      then, yeah, we would take a look at that.      4      Q. Do you know if General Mills has made      5      that statement in any other public forums?      6      A. I'm not aware of it.      7      Q. Is general Mills is publicly traded      8      company?      9      A. Yes, we are.      10     Q. Do you know if General Mills has made      11     that statement in any documents filed with the      12     Securities and Exchange Commission?      13     A. I'm not aware of any.      14     Q. Why is the procurement of cage-free eggs      15     something that General Mills promotes?      16     MR. CAMPBELL: Object to the form. He      17     didn't testify that they promoted them.      18     A. Can I clarify your answer, or your      19     question?      20     BY MR. DAVIS:      21     Q. Why is the procurement of cage-free eggs      22     something that General Mills advertises?</p>

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<p>1       <b>A. We don't advertise cage-free on our</b>  2       <b>products.</b></p> <p>3       Q. On your website.</p> <p>4       <b>A. Okay. So on our website, you know, why</b>  5       <b>are we talking about cage-free, buying cage-free</b>  6       <b>eggs --</b></p> <p>7       Q. Yes.</p> <p>8       <b>A. -- in our -- and why do we?</b></p> <p>9       Because recently, as of the last few  10      years, you know, there's certainly more chatter out  11      there about, you know, humane treatment and  12      cage-free. So we're doing that in response  13      recent -- as of the last year or so, recent  14      consumer interest.</p> <p>15      Q. Interest by individual consumers?</p> <p>16      <b>A. Yeah. Consumers, customers.</b></p> <p>17      Q. And any animal welfare advocacy  18      organizations?</p> <p>19      <b>A. Certainly they have an interest in it</b>  20      <b>and their population is part of our customer base.</b></p> <p>21      Q. How about the Humane Society of the  22      United States? Have they ever expressed to General</p>	<p>1       line of question post December 31st 2008.</p> <p>2       MR. DAVIS: Your objection is noted.</p> <p>3       MR. CAMPBELL: It's totally irrelevant.</p> <p>4       BY MR. DAVIS:</p> <p>5       Q. Are you aware of any such shareholder  6       resolution that has been brought or threatened to  7       have been brought by the Humane Society?</p> <p>8       <b>A. I don't know of any.</b></p> <p>9       Q. Is the company aware of any?</p> <p>10      <b>A. I haven't heard of any, but --</b></p> <p>11      Q. Do you know who created this document?</p> <p>12      <b>A. I don't know.</b></p> <p>13      Q. Do you see under cage-free economics it  14      says the "Biggest factor in cost premium is hen  15      density"?</p> <p>16      <b>A. Yup.</b></p> <p>17      Q. Do you understand what that means?</p> <p>18      <b>A. Yeah. It's the number of hens in a</b>  19      <b>given area.</b></p> <p>20      Q. And how would that affect -- or how  21      would that be the biggest factor in cost premium?</p> <p>22      <b>A. Based on what it says here, you know,</b></p>
<p>263</p> <p>1       Mills a desire for General Mills to source  2       cage-free eggs?</p> <p>3       <b>A. They have not -- I haven't seen anything</b>  4       <b>that had them requesting us source that.</b></p> <p>5       Q. Is General Mills aware of actions by the  6       Humane Society of the United States to push for  7       other food companies to source cage-free eggs?</p> <p>8       <b>A. You know, I -- no. I'm not aware of it.</b></p> <p>9       Q. I'll show you what's been marked as  10      Exhibit 35.</p> <p>11      (Tran Exhibit 35 was  12      marked for  13      identification.)</p> <p>14      BY MR. DAVIS:</p> <p>15      Q. Do you recognize this document?</p> <p>16      <b>A. I haven't seen this document.</b></p> <p>17      Q. If you look on the first page, the  18      second paragraph, it says that "The Humane Society  19      of the United States has threatened to bring a  20      shareholder resolution against General Mills  21      repeating the threat it made in 2010."</p> <p>22      MR. CAMPBELL: Again, I object to any</p>	<p>265</p> <p>1       <b>your density -- your density would be related to</b>  2       <b>how much output that you can get in a given area.</b></p> <p>3       Q. So the lesser density the lesser output  4       for that given area; is that right?</p> <p>5       <b>A. That's correct.</b></p> <p>6       Q. You can put that document aside. Is  7       General Mills opposed to sourcing cage-free eggs?</p> <p>8       MR. CAMPBELL: I'm going to object to  9       that. He just testified they're exploring it.</p> <p>10      <b>A. No. General Mills is not opposed to</b>  11      <b>sourcing.</b></p> <p>12      Q. And cage-free eggs are more expensive  13      than eggs laid by caged hens; is that right?</p> <p>14      <b>A. That's correct.</b></p> <p>15      Q. And General Mills is willing to pay a  16      cost premium or a price premium, rather, for those  17      cage-free eggs?</p> <p>18      <b>A. Yes, we are. As of recently.</b></p> <p>19      Q. Yes.</p> <p>20      Did General Mills look into a licensing  21      agreement for Betty Crocker eggs?</p> <p>22      MR. CAMPBELL: I object to the form of</p>

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<p style="text-align: right;">266</p> <p>1 the question.</p> <p>2 <b>A. Yeah. General Mills did not go out to</b>  <b>3 the market to actively explore it, licensing</b>  <b>4 opportunities.</b></p> <p>5 BY MR. DAVIS:</p> <p>6 Q. Did General Mills discuss such a      7 licensing opportunity?</p> <p>8 <b>A. General Mills was approached and --</b>      9 <b>approached by an outside company to look at it.</b></p> <p>10 Q. When did this occur?</p> <p>11 <b>A. Several years ago. 2010 I think that</b>      12 <b>there was some discussion.</b></p> <p>13 Q. I'll show you what's been marked as      14 Exhibit 36.</p> <p>15 (Tran Exhibit 36 was      16 marked for      17 identification.)</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. Now, this is the form that this document      20 was produced by General Mills, but it looks like      21 the cover page is in fact on page 2. Do you have      22 any knowledge of discussions involving trademark</p>	<p style="text-align: right;">268</p> <p>1 <b>cage-free, antibiotic free, you know, all those</b>      2 <b>things.</b></p> <p>3 Q. Could it include giving a hen a certain      4 minimum amount of cage space?</p> <p>5 MR. CAMPBELL: Objection, lack of      6 foundation.</p> <p>7 <b>A. I think that I haven't seen -- I haven't</b>      8 <b>seen cage space necessarily defined in -- when it</b>      9 <b>comes to premium standard eggs.</b></p> <p>10 BY MR. DAVIS:</p> <p>11 Q. Well, animal welfare is one of the      12 things that could make an egg be considered      13 premium; is that right?</p> <p>14 <b>A. That's right.</b></p> <p>15 Q. And that would include eggs that are      16 produced by hens who meet certain criteria, animal      17 welfare criteria, that are developed by scientists?</p> <p>18 MR. CAMPBELL: Objection for lack of      19 foundation.</p> <p>20 <b>A. You know, the response would be what</b>      21 <b>I've seen as what has been marketed as premium in</b>      22 <b>the shelves as it pertains to animal welfare are</b></p>
<p style="text-align: right;">267</p> <p>1 licensing recommendation for Betty Crocker premium      2 eggs in 2005?</p> <p>3 <b>A. Just general.</b></p> <p>4 Q. And what's the extent of your knowledge      5 on those discussions?</p> <p>6 <b>A. That there was some discussions on the</b>      7 <b>potential for licensing our Betty Crocker name to a</b>      8 <b>producer to sell eggs.</b></p> <p>9 Q. If you turn to page 3 the first bullet      10 point defines what it calls "the premium egg      11 category." Do you see that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And it defines it as eggs with a price      14 premium greater than the 25 percent of standard      15 eggs. Do you see that?</p> <p>16 <b>A. Yup.</b></p> <p>17 Q. And it gives several examples, one of      18 which is animal welfare. Do you see that?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Do you know what's meant by animal      21 welfare?</p> <p>22 <b>A. Animal welfare could be hormone free,</b></p>	<p style="text-align: right;">269</p> <p>1 <b>things like cage-free. That would be really the</b>      2 <b>only reference that I've seen out there that would</b>      3 <b>qualify as a premium egg.</b></p> <p>4 BY MR. DAVIS:</p> <p>5 Q. Was that true in 2005?</p> <p>6 <b>A. In 2005? You know, I guess I can't</b>      7 <b>really speak to 2005 because we didn't watch, you</b>      8 <b>know, the standard egg or premium egg markets to</b>      9 <b>understand what is offerings out there.</b></p> <p>10 Q. But you included animal welfare eggs in      11 the premium egg market; is that right?</p> <p>12 <b>A. In 2000 -- yeah, in 2005, you know, that</b>      13 <b>was there, yes.</b></p> <p>14 Q. Okay. I'll show you what's been marked      15 as Exhibit 37.</p> <p>16 (Tran Exhibit 37 was      17 marked for      18 identification.)</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. Exhibit 37 also refers to the potential      21 for Betty Crocker eggs. And if you look down at      22 the bottom it appears that this is also from the</p>

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<p>1      2005 time frame. Do you have any reason to suspect      2      otherwise?</p> <p>3      <b>A. It would show the growth rate in units      4      sold at that time. Yeah.</b></p> <p>5      Q. And the first sentence reads "The      6      premium egg segment of the fresh shelled egg      7      category is comprised of specialty eggs which are      8      produced for a particular appeal, i.e., organic,      9      nutritional, animal welfare, et cetera, plus all      10     other eggs sold at premium prices," which it      11     defines as "greater than 25 percent per egg than      12     standard grade private label eggs." Do you see      13     that?</p> <p>14     <b>A. Yeah.</b></p> <p>15     Q. And so this document also includes      16     animal welfare eggs as premium eggs, correct?</p> <p>17     <b>A. Yup.</b></p> <p>18     Q. And it distinguishes animal welfare eggs      19     from standard grade private label eggs; is that      20     right?</p> <p>21     <b>A. As it pertains to shell eggs, yes.</b></p> <p>22     Q. And it says "Until a few years ago the</p>	<p>1      <b>A. Yes.</b></p> <p>2      Q. Who's Gregg Dorazio?</p> <p>3      <b>A. He was a licensing person in General      4      Mills.</b></p> <p>5      Q. And does he have involvement with animal      6      welfare issues?</p> <p>7      <b>A. He was responsible for licensing,      8      external licensing, of our brands. He would not be      9      responsible for animal welfare.</b></p> <p>10     Q. So now down at the bottom in the "to"      11     line, who is Cass Wade-Kudla?</p> <p>12     <b>A. Cass Wade-Kudla is a quality and      13     regulatory manager.</b></p> <p>14     Q. With any responsibility for animal      15     welfare issues?</p> <p>16     <b>A. She would have -- at this time she was      17     in licensing. So she was a quality manager in our      18     licensing group and she wouldn't have      19     responsibility for that.</b></p> <p>20     Q. How about since that time?</p> <p>21     <b>A. Now? Right now? She wouldn't have any      22     responsibility for it either.</b></p>
<p>271</p> <p>1      premium egg segment was almost nonexistent"; is      2      that right?</p> <p>3      <b>A. According to this document.</b></p> <p>4      Q. And are you aware of when the UEP      5      certified program began?</p> <p>6      <b>A. It was in one of the exhibits, but --      7      what was it? 2004? 2003?</b></p> <p>8      Q. So is it fair to say that it was a few      9      years prior to when this document issued?</p> <p>10     <b>A. That UEP created a standard?</b></p> <p>11     Q. A certified program --</p> <p>12     <b>A. Yeah.</b></p> <p>13     Q. -- for animal welfare eggs?</p> <p>14     <b>A. That's correct.</b></p> <p>15     Q. You can put that aside. I'll show you      16     what's been marked as Exhibit 38.</p> <p>17        (Tran Exhibit 38 was      18        marked for      19        identification.)</p> <p>20     BY MR. DAVIS:</p> <p>21     Q. Exhibit 38 appears to be a meeting      22     invitation from Gregg Dorazio.</p>	<p>273</p> <p>1      Q. At any point in time? You made the      2      limitation as to at that time, so I'm just      3      clarifying.</p> <p>4      <b>A. Yeah. No. She wouldn't have that.</b></p> <p>5      Q. Who is John Luedke?</p> <p>6      <b>A. John Luedke is in our legal group. He's      7      one of our lawyers.</b></p> <p>8      Q. And the same is true for Ravi      9      Ramalingam?</p> <p>10     <b>A. Ramalingham, yes.</b></p> <p>11     Q. Who's Brent Robbins?</p> <p>12     <b>A. He is also in our legal group.</b></p> <p>13     Q. And then Bob Klein and Jim Dowd are both      14     with Affinity Marketing; is that right?</p> <p>15     <b>A. I don't know them, but if you say      16     they're with Affinity Marketing, I guess so.</b></p> <p>17     Q. You don't know who they are?</p> <p>18     <b>A. I don't know who they are.</b></p> <p>19     Q. Who is Linc Davis?</p> <p>20     <b>A. Linc Davis was a manager in our      21     licensing group.</b></p> <p>22     Q. Did he have any responsibility for</p>

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<p style="text-align: right;">274</p> <p>1 animal welfare issues?</p> <p>2 <b>A. No, he didn't.</b></p> <p>3 Q. At the top this e-mail mentions</p> <p>4 responsible sourcing. Do you see that?</p> <p>5 <b>A. Yup.</b></p> <p>6 Q. What is responsible sourcing?</p> <p>7 <b>A. Responsible sourcing was -- well, what</b>  <b>responsible sourcing is is are we taking into</b>  <b>account sustainability, environmental, social</b>  <b>aspects in how we do business.</b></p> <p>8 Q. And that includes animal welfare?</p> <p>9 <b>A. Yes, it could.</b></p> <p>10 Q. How many people are involved in</p> <p>11 responsible sourcing?</p> <p>12 <b>A. Right around 2010 -- yeah, right around</b>  <b>2010 there was a centralized group. And right now</b>  <b>I believe there is -- one, two -- maybe five or six</b>  <b>people that are involved.</b></p> <p>13 Q. When did responsible sourcing begin?</p> <p>14 <b>A. The group -- we call them the</b>  <b>sustainability and social responsibility. That</b>  <b>group began in 2010.</b></p>	<p style="text-align: right;">276</p> <p>1 <b>A. Correct.</b></p> <p>2 Q. That deals in part with animal welfare</p> <p>3 issues?</p> <p>4 <b>A. That's correct.</b></p> <p>5 Q. Does General Mills have any other</p> <p>6 collections of people that deal at least in part</p> <p>7 with animal welfare issues?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Does General Mills have any individuals</p> <p>10 who are not part of responsible sourcing who deal</p> <p>11 with animal welfare issues?</p> <p>12 <b>A. It would be the individual buyers then.</b>  <b>If there is an issue within their category they</b>  <b>would get involved with the sustainability group.</b></p> <p>13 Q. So General Mills has no other -- no</p> <p>14 committees that deal with animal welfare issues</p> <p>15 other than responsible sourcing?</p> <p>16 <b>A. That's correct.</b></p> <p>17 Q. Or any working groups that deal with</p> <p>18 these issues or look into these issues?</p> <p>19 <b>A. That's correct.</b></p> <p>20 Q. Okay. At the bottom of Exhibit 38 it</p>
<p style="text-align: right;">275</p> <p>1 Q. And why did it begin?</p> <p>2 <b>A. It began because General Mills started</b>  <b>seeing more interest and more activities as it</b>  <b>pertained to special interest groups and the need</b>  <b>to be ahead of issues out there as it pertained to</b>  <b>the environment, sustainability and social aspects.</b></p> <p>3 Q. And animal welfare?</p> <p>4 <b>A. And animal welfare.</b></p> <p>5 Q. Are there any other internal efforts at</p> <p>6 General Mills that pertain to animal welfare?</p> <p>7 MR. CAMPBELL: By other you mean outside</p> <p>8 of responsible sourcing?</p> <p>9 MR. DAVIS: Yes.</p> <p>10 <b>A. Is there other individuals? Are you --</b></p> <p>11 BY MR. DAVIS:</p> <p>12 Q. Well, first let's say are there other</p> <p>13 groups.</p> <p>14 <b>A. The groups -- the groups that</b>  <b>sustainable or sustainability would touch would be</b>  <b>the buying community.</b></p> <p>15 Q. So General Mills has a responsible</p> <p>16 sourcing collection of people?</p>	<p style="text-align: right;">277</p> <p>1 says that "An expert from United Egg Producers will</p> <p>2 be here to update us on trends in the egg</p> <p>3 industry," and it goes on to define that as</p> <p>4 including animal welfare. Do you see that?</p> <p>5 <b>A. Yup.</b></p> <p>6 Q. Do you know if that expert from United</p> <p>7 Egg Producers was Gene Gregory?</p> <p>8 <b>A. I don't know.</b></p> <p>9 Q. Have you spoken to any of the attendees</p> <p>10 of this meeting in preparation for your deposition</p> <p>11 today?</p> <p>12 <b>A. I have talked to Gregg Dorazio for a</b>  <b>little bit to ask him about, you know, his</b>  <b>licensing experience.</b></p> <p>13 Q. Did you ask him anything specific to</p> <p>14 this meeting?</p> <p>15 <b>A. I asked him what was discussed in the</b>  <b>meeting and what he got out of it. It was, you</b>  <b>know, it was very basic.</b></p> <p>16 Q. What was discussed in this meeting?</p> <p>17 <b>A. It was just general -- you know, just</b>  <b>general market and industry and product messaging</b></p>

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<p style="text-align: center;">278</p> <p><b>1 educational points that they went through.</b></p> <p><b>2 Q. I'll show you what's been marked as</b></p> <p><b>3 Exhibit 39.</b></p> <p><b>4 (Tran Exhibit 39 was</b></p> <p><b>5 marked for</b></p> <p><b>6 identification.)</b></p> <p><b>7 BY MR. DAVIS:</b></p> <p><b>8 Q. Do you recognize this document?</b></p> <p><b>9 A. I have not seen this document.</b></p> <p><b>10 Q. Do you know if this document was</b></p> <p><b>11 discussed at all in the meeting that was referenced</b></p> <p><b>12 on Exhibit 38?</b></p> <p><b>13 A. I can't tell for sure.</b></p> <p><b>14 Q. If you turn to page 2 of the document</b></p> <p><b>15 this says an "evaluation of egg production systems</b></p> <p><b>16 for General Mills." Do you see that?</b></p> <p><b>17 A. Yes.</b></p> <p><b>18 Q. And I'm sorry. If you flip back to the</b></p> <p><b>19 front, "Evaluation of cage versus cage-free egg</b></p> <p><b>20 production." Do you see that?</b></p> <p><b>21 A. Yes.</b></p> <p><b>22 Q. Do you know if that was a topic that was</b></p>	<p style="text-align: center;">280</p> <p><b>1 shareholder proposal?</b></p> <p><b>2 A. Yeah. The other document, yeah, said</b></p> <p><b>3 something to that effect.</b></p> <p><b>4 Q. And you have no reason to think that</b></p> <p><b>5 that was incorrect, right?</b></p> <p><b>6 A. Yeah.</b></p> <p><b>7 Q. If you move over to the second page, the</b></p> <p><b>8 fourth -- I'm sorry. The third page of the</b></p> <p><b>9 document, the second page of this letter --</b></p> <p><b>10 A. Mm-hmm.</b></p> <p><b>11 Q. -- the paragraph that starts "the</b></p> <p><b>12 problem with HSUS"?</b></p> <p><b>13 A. Yup.</b></p> <p><b>14 Q. "The problem was HSUS is that they only</b></p> <p><b>15 focus upon an unidentified space per bird and only</b></p> <p><b>16 support cage-free housing. We believe there are</b></p> <p><b>17 many other important factors to animal welfare as</b></p> <p><b>18 you will find in our animal husbandry guidelines."</b></p> <p><b>19 Do you see that?</b></p> <p><b>20 A. Yup.</b></p> <p><b>21 Q. Does General Mills have any view or</b></p> <p><b>22 whether there are other important factors to animal</b></p>
<p style="text-align: center;">279</p> <p><b>1 discussed at the meeting in 2010?</b></p> <p><b>2 A. Yeah. From an educational standpoint,</b></p> <p><b>3 you know, what are the specifics between cage and</b></p> <p><b>4 cage-free and what are -- what it means. They were</b></p> <p><b>5 discussion topics with Gregg.</b></p> <p><b>6 Q. In the second paragraph it says "We have</b></p> <p><b>7 anticipated that the Humane Society of the U.S.</b></p> <p><b>8 (HSUS) has provided information and encouragement</b></p> <p><b>9 that General Mills share all or a share of their</b></p> <p><b>10 eggs from cage-free farms." Do you see that?</b></p> <p><b>11 A. Yes.</b></p> <p><b>12 Q. Is that accurate?</b></p> <p><b>13 A. This is UEP. And the point there is</b></p> <p><b>14 that they anticipate. So it --</b></p> <p><b>15 Q. Did that ultimately come to pass?</b></p> <p><b>16 A. That the Humane Society encouraged us to</b></p> <p><b>17 source eggs?</b></p> <p><b>18 Q. To source all or a share of your eggs</b></p> <p><b>19 from cage-free farms.</b></p> <p><b>20 A. They have certainly inquired about it.</b></p> <p><b>21 Q. And they may have even -- or another</b></p> <p><b>22 document suggests that they threatened a</b></p>	<p style="text-align: center;">281</p> <p><b>1 welfare besides space per bird and cage-free</b></p> <p><b>2 housing?</b></p> <p><b>3 MR. DAVIS: Objection as to form because</b></p> <p><b>4 it presumes that they have an interest in the first</b></p> <p><b>5 two things, which he says they don't.</b></p> <p><b>6 A. So is your question pertaining to our</b></p> <p><b>7 purchases of raw materials?</b></p> <p><b>8 BY MR. DAVIS:</b></p> <p><b>9 Q. My question is pertaining to General</b></p> <p><b>10 Mills' viewpoint as a corporate citizen.</b></p> <p><b>11 A. Can you ask your -- can you ask your</b></p> <p><b>12 question again and clarify that?</b></p> <p><b>13 Q. Does General Mills agree that there are</b></p> <p><b>14 other important factors to animal welfare other</b></p> <p><b>15 than space per bird and the existence of cage-free</b></p> <p><b>16 housing, animal welfare for egg-laying hens?</b></p> <p><b>17 A. You know, we believe that, you know,</b></p> <p><b>18 currently animal welfare and the various components</b></p> <p><b>19 that make up good animal welfare are important</b></p> <p><b>20 factors, are important factors to the public. And</b></p> <p><b>21 as human beings we believe that.</b></p> <p><b>22 Q. And those components to animal welfare</b></p>

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<p style="text-align: right;">282</p> <p>1 for egg-laying hens include the cage space that's 2 allotted to caged hens; is that correct?</p> <p>3     <b>A. You know, it would include the handling,</b> 4     <b>the husbandry practices and the life cycle</b> 5     <b>management of the eggs, or the birds.</b></p> <p>6     Q. And does it include the cage space 7     that's allotted to hens?</p> <p>8     <b>A. That could be a factor.</b></p> <p>9     Q. Yes, it does include that?</p> <p>10    <b>A. Yes.</b></p> <p>11    Q. I'll show you what's been marked as 12    Exhibit 40.             (Tran Exhibit 40 was marked for identification.)</p> <p>13    BY MR. DAVIS: 14    Q. Do you recognize Exhibit 40? 15    <b>A. No. I haven't seen this.</b> 16    Q. Exhibit 40 also relates to the 17    discussion about Betty Crocker premium eggs. And 18    if you look at the bottom under next steps it says 19    "facility approval." Do you see that?</p>	<p style="text-align: right;">284</p> <p>1     <b>A. Well, I think this document says that we</b> 2     <b>would like to see it. But it's --</b></p> <p>3     Q. You'd like to see documentation proving 4     it?</p> <p>5     <b>A. Right.</b></p> <p>6     Q. So clearly it -- it's a requirement if 7     they want documentation that proves it, right?</p> <p>8     <b>A. Well, it's asking to see it. I don't</b> 9     <b>know if ultimately the program meant that or the</b> 10    <b>due diligence of the program meant that that would</b> 11    <b>be a requirement. So, you know, as it pertains to</b> 12    <b>premium eggs we obviously didn't move forward with</b> 13    <b>this proposal. So anything that -- you know, these</b> 14    <b>documentation are all part of due diligence and</b> 15    <b>exploratory work.</b></p> <p>16    Q. Why was Cass Wade-Kudla put in charge of 17    this component?</p> <p>18    <b>A. Because she was the quality manager for</b> 19    <b>licensing group.</b></p> <p>20    Q. And so would she more so than anyone 21    else involved with this project have been 22    responsible for discussions involving any</p>
<p style="text-align: right;">283</p> <p>1     <b>A. Yup.</b></p> <p>2     Q. And this says that Cass Wade-Kudla is to 3     review any facility profile for the selected 4     distributor; is that right?</p> <p>5     <b>A. That's what this document says.</b></p> <p>6     Q. And it goes on to say "Provide 7     documentation showing distributor's UEP animal 8     welfare certification and results of recent monthly 9     self audits and yearly USDA/independent audit." Do 10    you see that?</p> <p>11    <b>A. Yup.</b></p> <p>12    Q. Was it contemplated that the distributor 13    for any eggs that General Mills would use as Betty 14    Crocker premium eggs would be a UEP certified 15    producer?</p> <p>16    <b>A. You know, that could have been part of</b> 17    <b>the due diligence as they were exploring this</b> 18    <b>opportunity.</b></p> <p>19    Q. Well, this shows General Mills 20    specifically was planning to require that eggs used 21    as Betty Crocker premium eggs be UEP certified; is 22    that right?</p>	<p style="text-align: right;">285</p> <p>1     requirement that Betty Crocker premium eggs be UEP 2     certified?</p> <p>3     <b>A. Not necessarily. So for -- you know,</b> 4     <b>she could be the point person from a quality and</b> 5     <b>regulatory standpoint which would then get somebody</b> 6     <b>else involved. So that somebody else to do the</b> 7     <b>facilities audit could have been an ingredient</b> 8     <b>quality manager versus a licensing manager.</b></p> <p>9     Q. But in terms of the decision point as to 10    whether or not Betty Crocker premium eggs that were 11    sourced by General Mills would need to be UEP 12    certified, who would be involved in that decision?</p> <p>13    <b>A. As part of the due diligence it would</b> 14    <b>depend -- it would be more than just Cass</b> 15    <b>Wade-Kudla. It would be a marketing person and the</b> 16    <b>sales person that would also be involved in that to</b> 17    <b>understand is there an actual market.</b></p> <p>18    Q. And can you identify who those 19    individuals are?</p> <p>20    <b>A. No. Not out of this proposal because</b> 21    <b>this is purely due diligence and exploratory work.</b></p> <p>22    Q. I'm saying aside from this proposal --</p>

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<p>1      <b>A. Yeah.</b></p> <p>2      Q. -- this was obviously something that was</p> <p>3      discussed --</p> <p>4      <b>A. Right.</b></p> <p>5      Q. -- UEP certified eggs?</p> <p>6      <b>A. Mm-hmm.</b></p> <p>7      Q. We know that Cass Wade-Kudla was one of</p> <p>8      the people involved in that discussion about that</p> <p>9      document, correct?</p> <p>10     <b>A. Right.</b></p> <p>11     Q. And I'm saying who else by name was</p> <p>12     involved in that discussion?</p> <p>13     <b>A. Well, in this discussion through the due</b></p> <p>14     <b>diligence it would be Cass Wade.</b></p> <p>15     Q. And you're not aware of anyone else?</p> <p>16     <b>A. No. Nobody else other than the people</b></p> <p>17     <b>that were in that meeting invite. There was no raw</b></p> <p>18     <b>material ingredient managers. There was no raw</b></p> <p>19     <b>material sourcing people involved or --</b></p> <p>20     Q. So who would be the best person to ask</p> <p>21     about what considerations were made in terms of</p> <p>22     whether UEP certified was going to be a requirement</p>	<p>1      certified eggs may help to drive consumer demand</p> <p>2      for the eggs?</p> <p>3      <b>A. Correct.</b></p> <p>4      Q. That would be General Mills'</p> <p>5      consideration?</p> <p>6      <b>A. That's correct.</b></p> <p>7      Q. I'll show you what's been marked as</p> <p>8      Exhibit 41.</p> <p>9      (Tran Exhibit 41 was</p> <p>10     marked for</p> <p>11     identification.)</p> <p>12     BY MR. DAVIS:</p> <p>13     Q. Do you recognize this document?</p> <p>14     <b>A. Nope. It's an e-mail between Cass and</b></p> <p>15     <b>Gregg.</b></p> <p>16     Q. So the e-mail from Gregg at the bottom</p> <p>17     says "Can you take a look at Bob's question about</p> <p>18     audit?" Do you see that?</p> <p>19     <b>A. Mm-hmm.</b></p> <p>20     Q. Do you know who Bob is that he's</p> <p>21     referring to?</p> <p>22     <b>A. I don't know who Bob is.</b></p>
<p>23     287</p> <p>1      for eggs that would become Betty Crocker premium</p> <p>2      eggs?</p> <p>3      <b>A. If it was going to be a requirement out</b></p> <p>4      <b>of this proposal?</b></p> <p>5      Q. Yes.</p> <p>6      <b>A. You know, I'd probably say, you know,</b></p> <p>7      <b>Gregg Dorazio would probably be that person.</b></p> <p>8      Q. Not Cass Wade-Kudla?</p> <p>9      <b>A. No. Probably not.</b></p> <p>10     Q. Why not?</p> <p>11     <b>A. Because it is dependent on -- it is</b></p> <p>12     <b>dependent on do we have a -- do we have a good</b></p> <p>13     <b>enough value proposition on the licensing side to</b></p> <p>14     <b>decide if we're going to move forward and how does</b></p> <p>15     <b>that licensing arrangement look like and the</b></p> <p>16     <b>product and how it interacts with our brands.</b></p> <p>17     Q. So the decision point on whether to</p> <p>18     source UEP certified eggs would be from a marketing</p> <p>19     perspective?</p> <p>20     <b>A. Yes. It's more on a product and</b></p> <p>21     <b>marketing.</b></p> <p>22     Q. And how that the sourcing of UEP</p>	<p>23     289</p> <p>1      Q. And then Cass writes back "We would not</p> <p>2      inspect every single producer. However, we will</p> <p>3      most likely audit some." She goes on.</p> <p>4      Do you know what audit this was</p> <p>5      referring to?</p> <p>6      <b>A. I don't know what audit, you know, that</b></p> <p>7      <b>they're talking about. Is it a licensing audit or</b></p> <p>8      <b>is it a facilities audit. I'm not sure.</b></p> <p>9      Q. What would the purpose of an audit be?</p> <p>10     MR. CAMPBELL: Objection, lack of</p> <p>11     foundation.</p> <p>12     <b>A. What kind of audit? What kind of audit</b></p> <p>13     <b>are you asking for?</b></p> <p>14     BY MR. DAVIS:</p> <p>15     Q. A facilities audit.</p> <p>16     <b>A. So what -- so can you ask your -- can</b></p> <p>17     <b>you clarify your question?</b></p> <p>18     Q. What would the purpose be to General</p> <p>19     Mills of auditing --</p> <p>20     <b>A. A facility?</b></p> <p>21     Q. -- a facility?</p> <p>22     <b>A. The purpose of auditing a facility is to</b></p>

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<p style="text-align: center;">290</p> <p>1    ensure that they have the right manufacturing      2    practices, you know, and are -- would they be --      3    would they be a viable supplier and can they pass      4    the quality regulations to be a viable supplier.      5       Q. Who is Jerry Lynch?      6       A. <b>Jerry Lynch is our chief sustainability</b>      7       <b>officer.</b>      8       Q. And does he have any involvement with      9       animal welfare issues?      10      A. <b>Yes, he does.</b>      11      Q. What is his involvement?      12      A. <b>He is in our sustainability and social</b>      13      <b>responsibility group that handles matters regarding</b>      14      <b>sustainability, environmental, social, animal.</b>      15      Q. When you say the sustainability and      16      social responsibility group, that's synonymous with      17      responsible sourcing?      18      A. <b>Yes.</b>      19      Q. Can you tell me who is in that group?      20      A. <b>It is Jerry Lynch, Steve Peterson, Amy</b>      21      <b>Omman. Those are the main players in it now.</b>      22      Q. Is there anyone else?</p>	<p style="text-align: center;">292</p> <p>1       Q. The answer is no?      2       A. <b>No.</b>      3       MR. DAVIS: Why don't we take a short      4       five minute break?      5       MR. CAMPBELL: Sure.      6       THE VIDEOGRAPHER: We're going off the      7       record at 4:23 p.m.      8                    (Whereupon, a recess was taken from 4:23      9                    p.m to 4:38 p.m.)      10                    (Tran Exhibit 42 was      11                    marked for      12                    identification.)      13       THE VIDEOGRAPHER: This is video number      14       6 in the deposition of Binh Tran taken on August      15       13th 2013. The time now is 4:38 p.m.      16       BY MR. DAVIS:      17       Q. Mr. Tran, I've been handed what's been      18       marked as Exhibit 42. Do you recognize this      19       document?      20       MR. CAMPBELL: I object to any questions      21       on these documents post 2008. Can I have a      22       standing objection on that, Evan?</p>
<p style="text-align: center;">291</p> <p>1       A. <b>No.</b>      2       Q. Is there anyone else who was in it      3       previously?      4       A. <b>No. The group was just formed in 2010.</b>      5       Q. And it's only ever had three members?      6       A. <b>Since the formation, yes.</b>      7       Q. Do they all share equal responsibility      8       for animal welfare issues?      9       A. <b>Yes. All three of them share</b>      10      <b>responsibility across all of those issues.</b>      11      Q. Including animal welfare as it pertains      12      to egg-laying hens?      13      A. <b>Yes.</b>      14      Q. How do you spell Amy's last name?      15      A. <b>O-m-a-n.</b>      16      Q. Did General Mills have any contact with      17      any federal or state law enforcement official in      18      connection with any investigation of possible      19      antitrust violations regarding any alleged      20      agreement to reduce the supply of eggs or egg      21      products?      22      A. <b>I don't know of any. No.</b></p>	<p style="text-align: center;">293</p> <p>1       MR. DAVIS: Certainly.      2       MR. CAMPBELL: Okay. You may answer the      3       question.      4       A. <b>Yeah. It looks like a presentation on</b>      5       <b>eggs.</b>      6       BY MR. DAVIS:      7       Q. It's called "Egg category strategy:      8       putting all our eggs in one basket." Right?      9       A. <b>Yup.</b>      10      Q. If you turn to page 12 of the      11      document --      12      A. <b>It goes 11 and then 13.</b>      13      MR. CAMPBELL: Mine does as well. Hold      14      up a page. Maybe it's just a miss --      15      MR. DAVIS: It looks like these copies      16      are missing pages. Do you have one? Can we swap      17      out the exhibit? Do you have any objection?      18      MR. CAMPBELL: Sure.      19      BY MR. DAVIS:      20      Q. I apologize for that. If you'd turn to      21      page 12 --      22      A. <b>Yes.</b></p>

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<p style="text-align: right;">294</p> <p>1 Q. -- there's a slide called "Macro/micro 2 economic factors, impact to eggs." Do you see 3 that?</p> <p>4 A. <b>Yup.</b></p> <p>5 Q. And one of these boxes reads "Industry 6 fragmented around" --</p> <p>7 MR. CAMPBELL: Wait a minute, Evan. I'm 8 sorry. I still don't have a page 12.</p> <p>9 MR. HUTCHINSON: Do you have the old 10 one?</p> <p>11 MS. ANSARI: It's the one you handed us. 12 We have -- I think we have the old ones.</p> <p>13 MR. HUTCHINSON: I think Dick has the --</p> <p>14 MS. ANSARI: No. That one is still --</p> <p>15 MR. CAMPBELL: No. This one doesn't 16 have a 12.</p> <p>17 MR. HUTCHINSON: Okay.</p> <p>18 MR. CAMPBELL: We don't have that, Troy.</p> <p>19 MS. ANSARI: Oh, no. That's historical 20 HMM? Was that the --</p> <p>21 MR. CAMPBELL: But this says page 11.</p> <p>22 MR. HUTCHINSON: This one has a page 12.</p>	<p style="text-align: right;">296</p> <p>1 around standards lead to a lack of measurable 2 expansion?</p> <p>3 A. <b>Well, if you don't have standards or go-forward strategies, you know, your industry is basically directionless so why would you invest in -- why would you invest to go nowhere. You want to have a good strategy or plan.</b></p> <p>4 Q. So industry standards are important for 5 expansion of the industry?</p> <p>6 A. <b>Well, as it states here, "industry standards and go-forward strategies."</b></p> <p>7 Q. Right. They are each important?</p> <p>8 A. <b>They are both important, yes.</b></p> <p>9 Q. And so one of the things that's 10 important for industry expansion is industry 11 standards; is that right?</p> <p>12 A. <b>It's one of them.</b></p> <p>13 Q. Yes.</p> <p>14 A. <b>Yeah.</b></p> <p>15 Q. And you said because it gives a certain 16 measure of predictability?</p> <p>17 A. <b>Yeah. Predictability is one factor.</b></p>
<p style="text-align: right;">295</p> <p>1 All right. So here is one with page 12.</p> <p>2 MR. CAMPBELL: Do you have a page 12?</p> <p>3 THE WITNESS: I do on this one.</p> <p>4 MR. CAMPBELL: Okay.</p> <p>5 MR. HUTCHINSON: But that's an old one, 6 Dick.</p> <p>7 MR. CAMPBELL: This is an old one?</p> <p>8 MR. HUTCHINSON: Yeah. Throw that one 9 away. I think I gave you that when you were -- 10 that one has 12, right, now?</p> <p>11 MS. ANSARI: No.</p> <p>12 MR. HUTCHINSON: Okay.</p> <p>13 MR. DAVIS: So you have page 12 on your 14 copy?</p> <p>15 MR. CAMPBELL: Yeah. Go ahead, Evan.</p> <p>16 BY MR. CAMPBELL:</p> <p>17 Q. So do you see the box that reads 18 "Industry fragmented around standards and 19 go-forward strategies leading to lack of measurable 20 expansion"?</p> <p>21 A. <b>Yes.</b></p> <p>22 Q. Why would an industry that's fragmented</p>	<p style="text-align: right;">297</p> <p>1 Q. Why else?</p> <p>2 A. <b>Why --</b></p> <p>3 Q. Are they important.</p> <p>4 A. <b>Why else are standards and go-forward strategies?</b></p> <p>5 Q. Specifically standards.</p> <p>6 A. <b>Why are standards important? Because if you -- well, if you don't have standards then you don't know what the rules of the game are.</b></p> <p>7 Q. And so why is that important to know in 8 order to have industry expansion?</p> <p>9 A. <b>Because if your rules ultimately change then you could be left with an asset base or a -- you know, or a product that can't be sold.</b></p> <p>10 Q. If you turn to the next page, page 13, 11 on the top slide in the middle box it reads -- and 12 I know it's difficult to read. "No one is 13 currently adding capacity due to lack of clarity on 14 standards and high feed costs." Do you see that?</p> <p>15 A. <b>Yes.</b></p> <p>16 Q. So is it General Mills' view that in the 17 further processed egg industry a reluctance to add</p>

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<p>1 capacity was due to a lack of clarity on standards?</p> <p>2     <b>A. Well, as it states here, it's a lack of</b></p> <p>3     <b>standards and high feed.</b></p> <p>4     Q. Both of those two things contribute --</p> <p>5     <b>A. To a lack of expansion.</b></p> <p>6     Q. You can put that document aside.</p> <p>7       MR. DAVIS: Mr. Tran, I believe that I'm</p> <p>8       done with my questioning of you for the day. I'll</p> <p>9       turn this over to Mr. Hutchinson who I believe has</p> <p>10      a few questions for you.</p> <p>11       THE WITNESS: Okay.</p> <p>12       MR. HUTCHINSON: Do you want to just</p> <p>13      switch seats?</p> <p>14       MR. DAVIS: Sure.</p> <p>15       MR. CAMPBELL: Where are we, Dean?</p> <p>16       THE VIDEOGRAPHER: Six hours, sixteen</p> <p>17      minutes.</p> <p>18       MR. HUTCHINSON: So I have 45 minutes.</p> <p>19      44 minutes. I will try not to use the entirety of</p> <p>20      that 45 minutes. Everyone ready? We're on?</p> <p>21       THE VIDEOGRAPHER: Yes.</p> <p>22      EXAMINATION BY COUNSEL FOR THE DEFENDANT</p>	<p>1       complaint. What's your understanding of the</p> <p>2       allegations in the complaint?</p> <p>3       <b>A. Is there something specific in the</b></p> <p>4       <b>complaint that you want to touch on? Or can you</b></p> <p>5       <b>refine your question?</b></p> <p>6       Q. No. What's your understanding -- I</p> <p>7       mean, General Mills has sued my client, Sparboe</p> <p>8       Farms.</p> <p>9       <b>A. Correct.</b></p> <p>10       Q. Do you have any understanding of the</p> <p>11      basis for those claims?</p> <p>12       MR. CAMPBELL: Against Sparboe, you</p> <p>13      mean?</p> <p>14       MR. HUTCHINSON: Yes.</p> <p>15       <b>A. The complaint talks about price fixing</b></p> <p>16       <b>in the egg industry between the periods before</b></p> <p>17       <b>2008.</b></p> <p>18       Q. And it's your understanding that Sparboe</p> <p>19      Farms conspired to fix prices?</p> <p>20       <b>A. Yeah. They're mentioned in the</b></p> <p>21       <b>complaint.</b></p> <p>22       Q. Okay. And what evidence is there to</p>
<p>1       SPARBOE FARMS</p> <p>2       BY MR. HUTCHINSON:</p> <p>3       Q. Mr. Tran, I'm Troy Hutchinson. We met</p> <p>4      earlier?</p> <p>5       <b>A. Yup.</b></p> <p>6       Q. I represent Sparboe Farms --</p> <p>7       <b>A. Yup.</b></p> <p>8       Q. -- one of the egg suppliers that General</p> <p>9      Mills has sued. I want to ask you again about</p> <p>10     General Mills' allegations against my client and</p> <p>11     the other egg producers.</p> <p>12       <b>A. Okay.</b></p> <p>13       Q. Why did General Mills sue my client,</p> <p>14      Sparboe Farms?</p> <p>15       MR. CAMPBELL: Object to the extent it</p> <p>16      calls for communications with counsel. Do you have</p> <p>17      any knowledge outside of communications with us?</p> <p>18       <b>A. I don't have any knowledge outside of</b></p> <p>19       <b>communication with counsel and what's filed in the</b></p> <p>20       <b>complaint.</b></p> <p>21       BY MR. HUTCHINSON:</p> <p>22       Q. Well, let's focus on what's filed in the</p>	<p>1       301 suggest that Sparboe Farms got together with other</p> <p>2       egg producers to fix prices?</p> <p>3       MR. CAMPBELL: Objection on the ground</p> <p>4      that if he has any evidence or knowledge of</p> <p>5      evidence other than communications with counsel, he</p> <p>6      can give the answer. But if not then I instruct</p> <p>7      him not to answer.</p> <p>8       <b>A. Other than what has been discussed with</b></p> <p>9       <b>counsel, that's what I would have.</b></p> <p>10       BY MR. HUTCHINSON:</p> <p>11       Q. Is it your understanding that the egg</p> <p>12      producers enacted animal welfare standards?</p> <p>13       <b>A. Can you refine your question?</b></p> <p>14       Q. Is your understanding of the complaint</p> <p>15      that Sparboe Farms and other egg producers created</p> <p>16      animal welfare standards? Is that alleged in the</p> <p>17      complaint?</p> <p>18       <b>A. It's mentioned in the complaint that</b></p> <p>19       <b>animal welfare -- animal welfare practices were</b></p> <p>20       <b>impacted by suppliers.</b></p> <p>21       Q. And is it alleged that those animal</p> <p>22      welfare standards were part of a scheme to reduce</p>

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<p>302</p> <p>1 the supply of eggs?</p> <p>2     <b>A. Correct.</b></p> <p>3     Q. And do you find that to be a plausible</p> <p>4 argument?</p> <p>5     <b>A. Me personally or from a company -- are</b></p> <p>6 <b>you asking for an opinion?</b></p> <p>7     Q. I'm asking you as the representative for</p> <p>8 General Mills if you find that argument to be</p> <p>9 plausible.</p> <p>10    <b>A. Well, you know -- I guess, you know, you</b></p> <p>11 <b>can look at the complaint and that's really what</b></p> <p>12 <b>our opinion is.</b></p> <p>13    Q. But General Mills has animal welfare</p> <p>14 policies, right?</p> <p>15    MR. CAMPBELL: Objection. General Mills</p> <p>16 did not have animal welfare policies during the</p> <p>17 relevant period.</p> <p>18    <b>A. So during the period of the complaint</b></p> <p>19 <b>General Mills did not have any policies on animal</b></p> <p>20 <b>welfare.</b></p> <p>21    Q. So in 2005 General Mills had no policies</p> <p>22 on animal welfare? That's your position?</p>	<p>304</p> <p>1     Q. Did you have any conversations with</p> <p>2 anyone to whom Galen Hersey reported?</p> <p>3     <b>A. No, I did not.</b></p> <p>4     Q. And do you know who Galen Hersey is?</p> <p>5     <b>A. I know of him.</b></p> <p>6     Q. And who is Galen Hersey?</p> <p>7     <b>A. He was in our licensing group.</b></p> <p>8     Q. He was an employee of General Mills?</p> <p>9     <b>A. Yeah. An ex-employee.</b></p> <p>10    MR. CAMPBELL: I'm sorry, Troy. What</p> <p>11 number is this?</p> <p>12    MR. HUTCHINSON: Exhibit 43.</p> <p>13    MR. CAMPBELL: Thank you.</p> <p>14    BY MR. HUTCHINSON:</p> <p>15    Q. And if you can look down at the second</p> <p>16 paragraph --</p> <p>17    <b>A. Mm-hmm.</b></p> <p>18    Q. -- it states that "All egg farmers</p> <p>19 producing Betty Crocker brand eggs will be required</p> <p>20 to be certified to meet these animal welfare</p> <p>21 requirements."</p> <p>22    <b>A. The second paragraph --</b></p>
<p>303</p> <p>1     <b>A. No, we did not, as it pertains to the</b></p> <p>2 <b>purchases of eggs.</b></p> <p>3       <b>(Tran Exhibit 43 was</b></p> <p>4 <b>marked for</b></p> <p>5 <b>identification.)</b></p> <p>6    BY MR. HUTCHINSON:</p> <p>7    Q. Mr. Tran, I'm handing you what's been</p> <p>8 marked as Exhibit 43. Have you ever seen this</p> <p>9 document?</p> <p>10    <b>A. I have not.</b></p> <p>11    Q. In preparing for your testimony today</p> <p>12 did you have any conversations with Bob Klein?</p> <p>13    <b>A. I have not.</b></p> <p>14    Q. Did you have any conversations with Jim</p> <p>15 Dowd?</p> <p>16    <b>A. No, I have not.</b></p> <p>17    Q. Did you have any conversations with</p> <p>18 anyone at Affinity Marketing?</p> <p>19    <b>A. No.</b></p> <p>20    Q. Did you have any conversations with</p> <p>21 Galen Hersey?</p> <p>22    <b>A. I did not.</b></p>	<p>305</p> <p>1     MR. CAMPBELL: It's the last sentence.</p> <p>2     THE WITNESS: Oh. Okay.</p> <p>3     MR. CAMPBELL: I object on the ground</p> <p>4 that your question assumes that this is a General</p> <p>5 Mills document. It's not a General Mills document.</p> <p>6    BY MR. HUTCHINSON:</p> <p>7    Q. You see that statement there, that "All</p> <p>8 egg farmers producing Betty Crocker brand eggs will</p> <p>9 be required to be certified to meet these animal</p> <p>10 welfare requirements?"</p> <p>11    <b>A. You know, I acknowledge that this</b></p> <p>12 <b>document came from Affinity Marketing and that this</b></p> <p>13 <b>was part of the due diligence for a licensing</b></p> <p>14 <b>opportunity of shelled eggs.</b></p> <p>15    Q. And Affinity Marketing has worked for</p> <p>16 General Mills, correct?</p> <p>17    <b>A. They were a supplier to General Mills</b></p> <p>18 <b>for licensing products, not raw materials.</b></p> <p>19       <b>(Tran Exhibit 44 was</b></p> <p>20 <b>marked for</b></p> <p>21 <b>identification.)</b></p> <p>22    BY MR. HUTCHINSON:</p>

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<p style="text-align: right;">306</p> <p>1 Q. I'm handing you what's been marked as 2 Tran Exhibit 44. Have you ever seen this document, 3 Mr. Tran?</p> <p>4 <b>A. No. I'm not sure who produced this or made this.</b></p> <p>5 Q. This document talks about an incident 6 that occurred in 2004 in this third paragraph here. 7 Do you recall this incident where a Dutch animal 8 welfare group asked Haagen-Dazs about their egg 9 sourcing practices?</p> <p>10 <b>A. Haagen-Dazs is part of our international group and it is based out of our European offices. Haagen-Dazs is not part of our U.S. operations. So this was strictly for Europe and the rest of the world.</b></p> <p>11 Q. But Haagen-Dazs, is it a separate 12 division?</p> <p>13 <b>A. It's a separate division in our international group.</b></p> <p>14 Q. And it's wholly owned by General Mills?</p> <p>15 <b>A. The brand is owned and licensed out by General Mills. Yes.</b></p>	<p style="text-align: right;">308</p> <p>1 United States. This suit is not about purchase of 2 egg products in Europe.</p> <p>3 BY MR. HUTCHINSON:</p> <p>4 Q. You can answer.</p> <p>5 <b>A. Your question is why would it be relevant, why would General Mills care what our competitors do?</b></p> <p>6 Q. Right.</p> <p>7 <b>A. Well, in a general sense we would care what our competitors do because if there's something that gives them an advantage in the marketplace we would want to know about it.</b></p> <p>8 Q. And General Mills wouldn't want one of 9 its competitors like Ben &amp; Jerry's to have an 10 unfair advantage in the marketplace; is that right?</p> <p>11 <b>A. No, we wouldn't. We wouldn't want them to have an advantage.</b></p> <p>12 Q. And the advantage here would be that 13 consumer perception would view Ben &amp; Jerry's as 14 more committed to animal welfare than General 15 Mills, right?</p> <p>16 <b>A. Are you making a statement or are you</b></p>
<p style="text-align: right;">307</p> <p>1 Q. And do you recall this incident in 2004 2 where Haagen-Dazs was asked about their egg 3 sourcing practices?</p> <p>4 <b>A. Haagen-Dazs in our European offices for the rest of the world was asked about this.</b></p> <p>5 Q. And you recall that?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And this document also talks about that 8 "Beginning in spring 2010 General Mills 9 International began sourcing 10 percent of its eggs 10 for Haagen-Dazs in Europe from free range hens." 11 Do you see that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And this document also talks about 14 General Mills' competitor, Ben &amp; Jerry's, right?</p> <p>15 <b>A. Correct.</b></p> <p>16 Q. Why would it be important, or why would 17 General Mills care about what its competitor, Ben &amp; 18 Jerry's, was doing with respect to egg supply?</p> <p>19 MR. CAMPBELL: I object to the relevance 20 of this. This -- he's testified clearly that has 21 nothing to do with purchase of egg products in the</p>	<p style="text-align: right;">309</p> <p>1 <b>asking a question?</b></p> <p>2 Q. Well, the concern with Ben &amp; Jerry's is 3 that they've moved to a hundred percent cage-free 4 eggs, right?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. And General Mills cares about that 7 because they want to keep pace with their 8 competitors, right?</p> <p>9 <b>A. We would want to -- we would want to 10 ensure that we continued to be viewed favorably 11 from various aspects of our product against 12 competition. Product makeup and marketing and 13 brand image are aspects of all of those that we 14 would want to make sure that we're -- that we have 15 an advantage and we have a good position in the 16 market, not only does the product say cage-free.</b></p> <p>17 <b>(Tran Exhibit 45 was 18 marked for 19 identification.)</b></p> <p>20 BY MR. HUTCHINSON:</p> <p>21 Q. Mr. Tran, I've just handed you what's 22 been marked Tran Exhibit 45. Are you familiar with</p>

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<p style="text-align: center;">310</p> <p>1       this document?</p> <p>2       <b>A. No. I haven't seen this document.</b></p> <p>3       Q. So you don't know who created this</p> <p>4       document?</p> <p>5       <b>A. I don't.</b></p> <p>6       Q. This document makes a recommendation</p> <p>7       that General Mills buy one million cage-free eggs</p> <p>8       in fiscal year 2012. Do you know if that happened?</p> <p>9       MR. CAMPBELL: Again, Troy, let me</p> <p>10      object on the ground that this document refers to</p> <p>11      2012, which is far outside the relevant period, has</p> <p>12      absolutely no relation to this case at all. Could</p> <p>13      I have a standing objection?</p> <p>14      MR. HUTCHINSON: You can. Yeah, let's</p> <p>15      have a standing objection.</p> <p>16      MR. CAMPBELL: You may answer, Mr. Tran.</p> <p>17      <b>A. Your question again?</b></p> <p>18      BY MR. HUTCHINSON:</p> <p>19      Q. So this document makes a recommendation</p> <p>20      that General Mills buy one million cage-free eggs</p> <p>21      in fiscal year 2012. Do you know if that happened?</p> <p>22      <b>A. I know that there was due diligence that</b></p>	<p style="text-align: center;">312</p> <p>1       aren't customers, right? Those are --</p> <p>2       <b>A. They're competitors.</b></p> <p>3       Q. Those are competitors of General Mills?</p> <p>4       <b>A. Correct.</b></p> <p>5       Q. So again, why would General Mills be</p> <p>6       caring about what its competitors were doing?</p> <p>7       MR. CAMPBELL: Objection, asked and</p> <p>8       answered.</p> <p>9       <b>A. We care about what our competitors are</b></p> <p>10      <b>doing because we don't want to be viewed</b></p> <p>11      <b>unfavorably against our competition in terms of</b></p> <p>12      <b>productivity or brand recognition or value to the</b></p> <p>13      <b>consumer.</b></p> <p>14      BY MR. HUTCHINSON:</p> <p>15      Q. Do you know did General Mills enter into</p> <p>16      any kind of an agreement with Kraft or Sara Lee or</p> <p>17      Campbell's that they would make purchases of</p> <p>18      cage-free eggs?</p> <p>19      <b>A. No, we did not.</b></p> <p>20      Q. So they were just looking and following</p> <p>21      the lead of other companies that were competitors</p> <p>22      to them in the market?</p>
<p style="text-align: center;">311</p> <p>1       <b>was being done. I don't know -- my understanding</b></p> <p>2       <b>is that most of the purchases would actually be</b></p> <p>3       <b>done in '13. You know, was there some small amount</b></p> <p>4       <b>as we were testing and trying to commingle this</b></p> <p>5       <b>stuff? Possibly.</b></p> <p>6       Q. And do you know why General Mills</p> <p>7       made -- or why this recommendation was made that</p> <p>8       General Mills start buying cage-free eggs?</p> <p>9       <b>A. Well, based on this document it looks</b></p> <p>10      <b>like there was a threat from a shareholder, the</b></p> <p>11      <b>Humane Society, asking us to transition to</b></p> <p>12      <b>cage-free eggs in 2012. So we made an act on that</b></p> <p>13      <b>to do so as other companies were exploring the same</b></p> <p>14      <b>thing in 2012.</b></p> <p>15      Q. And when you say other companies, what</p> <p>16      companies are you referring to?</p> <p>17      <b>A. Well, it talks about in this document as</b></p> <p>18      <b>pure companies like Kraft, Sara Lee, Campbell's,</b></p> <p>19      <b>some customers like Wal-Marts have started to make</b></p> <p>20      <b>some purchases of cage-free eggs. So those are the</b></p> <p>21      <b>customers that I'm talking about.</b></p> <p>22      Q. Were Kraft, Sara Lee and Campbell's</p>	<p style="text-align: center;">313</p> <p>1       <b>A. Correct.</b></p> <p>2       (Tran Exhibit 46 was</p> <p>3       marked for</p> <p>4       identification.)</p> <p>5       BY MR. HUTCHINSON:</p> <p>6       Q. Mr. Tran, I've just handed you what's</p> <p>7       been marked as Tran Exhibit 46. Have you seen this</p> <p>8       document before, Mr. Tran?</p> <p>9       <b>A. I've heard of it.</b></p> <p>10      Q. And how did you hear about it?</p> <p>11      <b>A. From one of the buyers, John Tiedeman.</b></p> <p>12      Q. When did you first hear about this</p> <p>13      document?</p> <p>14      <b>A. Probably like six months ago.</b></p> <p>15      Q. So that would have been around the</p> <p>16      beginning of 2013?</p> <p>17      <b>A. Correct.</b></p> <p>18      Q. And who is John Tiedeman?</p> <p>19      <b>A. He was a -- he is a buyer of egg</b></p> <p>20      <b>products.</b></p> <p>21      Q. And is he the current egg buyer at</p> <p>22      General Mills?</p>

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<p style="text-align: right;">314</p> <p>1       <b>A. Yeah.</b></p> <p>2       Q. And when did he start in that position?</p> <p>3       <b>A. I want to say like two thousand -- late</b></p> <p>4       <b>2011.</b></p> <p>5       Q. And so is that the position that you had</p> <p>6       at one point?</p> <p>7       <b>A. Yes.</b></p> <p>8       Q. When Mr. -- I don't recall you</p> <p>9       mentioning Mr. Tiedeman during Mr. Davis' earlier</p> <p>10      questioning.</p> <p>11      MR. CAMPBELL: He did mention him.</p> <p>12      MR. HUTCHINSON: He was mentioned?</p> <p>13      MR. CAMPBELL: Yes.</p> <p>14      BY MR. HUTCHINSON:</p> <p>15      Q. And why did you have a discussion about</p> <p>16      this document with Mr. Tiedeman in the beginning of</p> <p>17      this year?</p> <p>18      <b>A. With this document we'll generally</b></p> <p>19      <b>share, you know, as buyers and within sourcing</b></p> <p>20      <b>things that we're doing with each other, you know.</b></p> <p>21      <b>And there started to become some activity around</b></p> <p>22      <b>this case and so I had asked him for his input and</b></p>	<p style="text-align: right;">316</p> <p>1       <b>producers in the industrial market currently. So</b></p> <p>2       <b>supply is limited.</b></p> <p>3       Q. And if you could flip to the page Bates</p> <p>4       labeled 32230 --</p> <p>5       <b>A. I don't have those markings on -- oh,</b></p> <p>6       <b>there they are.</b></p> <p>7       <b>THE WITNESS: Oh.</b></p> <p>8       MR. CAMPBELL: You do. They're down</p> <p>9       there.</p> <p>10      <b>THE WITNESS: 322 --</b></p> <p>11      <b>BY MR. HUTCHINSON:</b></p> <p>12      Q. So it ends in 30.</p> <p>13      <b>A. Okay. "Is cage-free the right</b></p> <p>14      <b>solution"? Is that the one you're --</b></p> <p>15      Q. Right. And just in glancing at this it</p> <p>16      looks like the cons of cage-free, at least there's</p> <p>17      a longer list of cons than there are pros, right?</p> <p>18      <b>A. Just from a sheer bullet number, yes.</b></p> <p>19      Q. But notwithstanding the fact that there</p> <p>20      was increased in costs in cage-free eggs, right,</p> <p>21      that's one of the factors that is mentioned in</p> <p>22      this, correct?</p>
<p style="text-align: right;">315</p> <p>1       <b>what's been going on, you know, to get me up to</b></p> <p>2       <b>speed on what's been happening in the egg category</b></p> <p>3       <b>since I last had it and was directly buying it. So</b></p> <p>4       <b>he shared some of this information.</b></p> <p>5       Q. And if you could flip to the second</p> <p>6       page, did he explain to you this concept, the first</p> <p>7       bullet point, that "Cage-free movement is fueled by</p> <p>8       emotion"?</p> <p>9       <b>A. Yeah.</b></p> <p>10      Q. And what does that mean?</p> <p>11      <b>A. Well, I think the bullet point</b></p> <p>12      <b>underneath it that says "Science shows no increased</b></p> <p>13      <b>health benefit for chicken or eggs" is what that</b></p> <p>14      <b>means. So the demand for cage-free is more of an</b></p> <p>15      <b>emotion and social demand.</b></p> <p>16      Q. And the second bullet point is</p> <p>17      "Cage-free supply is limited and expensive." Did</p> <p>18      he explain that bullet point to you?</p> <p>19      <b>A. Yes.</b></p> <p>20      Q. And what was his explanation of that</p> <p>21      concept?</p> <p>22      <b>A. That there isn't a lot of cage-free</b></p>	<p style="text-align: right;">317</p> <p>1       <b>A. That's correct.</b></p> <p>2       Q. So notwithstanding the increased cost</p> <p>3       and the fact that there's no meaningful health</p> <p>4       benefits from cage-free production, do you know why</p> <p>5       General Mills would start buying cage-free eggs?</p> <p>6       <b>A. We would start buying cage-free eggs</b></p> <p>7       <b>because our competitive set start moving towards</b></p> <p>8       <b>that. So to -- you know, to not be left without an</b></p> <p>9       <b>option that addresses the needs of the consumer, we</b></p> <p>10      <b>needed to show some activity there in recent years.</b></p> <p>11      Q. And that activity is a requirement that</p> <p>12      General Mills enacted for itself that it would buy</p> <p>13      at least a million eggs that were cage-free, right?</p> <p>14      <b>A. That's correct.</b></p> <p>15      Q. And when you say -- the word was -- did</p> <p>16      you say "competitive set"?</p> <p>17      <b>A. Competitive set? Yeah. Our</b></p> <p>18      <b>competition.</b></p> <p>19      Q. Your competition?</p> <p>20      <b>A. Correct.</b></p> <p>21      Q. So who would that be?</p> <p>22      <b>A. That would be other food CBGs, Kraft,</b></p>

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<p style="text-align: right;">318</p> <p>1     <b>Sara Lee, you know, those people.</b>      2       Q. And so what you're saying is General      3       Mills created this animal welfare requirement to      4       buy cage-free eggs because that's what General      5       Mills' competitors were doing, right?      6       <b>A. Yes. That's what we were seeing in the</b>      7       <b>market.</b>      8       Q. And it wasn't -- General Mills' action      9       was presumably in its best business interests,      10      right?      11      <b>A. Yes. Our business interest is to make</b>      12      <b>sure that we have a product offering that aligns</b>      13      <b>with the consumer -- with the consumer needs and</b>      14      <b>desires.</b>      15      Q. So this creation of this animal welfare      16      requirement wasn't part of some conspiracy with      17      your competitors, correct?      18      <b>A. It was not.</b>      19      Q. If you could flip to Exhibit 24. Do you      20      have a copy of that there?      21      MR. CAMPBELL: It's the big, thick one.      22      BY MR. HUTCHINSON:</p>	<p style="text-align: right;">320</p> <p>1       positions of buying various commodity products for      2       a number of years, right?      3       <b>A. Correct.</b>      4       Q. So you have a basis for understanding      5       what factors would impact the price of eggs,      6       correct?      7       <b>A. Yeah. We would understand some of the</b>      8       <b>factors, yeah.</b>      9       Q. And you, specifically you?      10      <b>A. Yes.</b>      11      Q. And you have an understanding for the      12      defendant's action that are alleged in that      13      complaint, Exhibit 24, right?      14      MR. CAMPBELL: Same objection. He's      15      testified his only understanding is what he's read      16      in the complaint.      17      <b>A. Yes.</b>      18      BY MR. HUTCHINSON:      19      Q. Well, you've read the complaint. Right?      20      That's what I'm asking.      21      <b>A. Right.</b>      22      Q. And the allegations of the defendant's</p>
<p style="text-align: right;">319</p> <p>1       Q. It's a big one. There it is. And it's      2       it is the General Mills second amended complaint.      3       And if you could flip to page 63, the heading C      4       there, do you see that?      5       <b>A. Yup.</b>      6       Q. "Defendants through their actions in      7       furtherance of the conspiracy successfully      8       increased prices"?</p> <p>9       <b>A. Okay.</b>      10      Q. What actions of the defendants led to      11      increased prices?      12      MR. CAMPBELL: Objection on the ground      13      that he may answer that question only to the extent      14      that he has knowledge which he gained outside of      15      communications with counsel.      16      <b>A. What I know of that is what I got from</b>      17      <b>counsel.</b>      18      BY MR. HUTCHINSON:      19      Q. Well, you were an egg buyer for three      20      years, correct?      21      <b>A. That's correct.</b>      22      Q. And in addition to that you've been in</p>	<p style="text-align: right;">321</p> <p>1       actions in the complaint?      2       <b>A. Correct.</b>      3       Q. Explain to me then how the actions of      4       the defendants as alleged in this complaint      5       increased prices.      6       <b>A. What I know of their action is what I</b>      7       <b>have gotten from counsel and what is listed in this</b>      8       <b>complaint.</b>      9       Q. Right. So I'm asking you from what's      10      listed in the complaint explain to me how those      11      actions that are listed in the complaint led to      12      increased prices of eggs?      13      <b>A. Okay.</b>      14      MR. CAMPBELL: I think the complaint --      15      objection. The complaint outlines everything. Do      16      you want him to read 200 pages of complaint to you?      17      MR. HUTCHINSON: No. I want --      18      BY MR. HUTCHINSON:      19      Q. Explain to me how the defendant's      20      actions as alleged in the complaint increased the      21      price of eggs.      22      <b>A. We can go through complaint if you'd</b></p>

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<p style="text-align: center;">322</p> <p>1   <b>like. But I guess I would refer to the complaint</b>      2   <b>and what I've gotten from outside counsel to your</b>      3   <b>question.</b></p> <p>4   Q. Well, the complaint doesn't tell me.      5   Right? So I want you to explain to me.</p> <p>6   <b>A. Mm-hmm.</b></p> <p>7   Q. That's why you're here today --</p> <p>8   <b>A. Right.</b></p> <p>9   Q. -- is to explain to us General Mills'      10   position. So I want an understanding from you of      11   as alleged in the complaint.</p> <p>12   <b>A. Mm-hmm.</b></p> <p>13   MR. CAMPBELL: I object. I'm not going      14   to have him stand here and regurgitate the      15   complaint.</p> <p>16   MR. HUTCHINSON: And I don't want him --</p> <p>17   BY MR. HUTCHINSON:</p> <p>18   Q. And I don't want you to do that. But I      19   do want you to explain to me in its simplest,      20   rawest form what did the defendants do that led to      21   increased prices in eggs?</p> <p>22   MR. CAMPBELL: Objection. It's set out</p>	<p style="text-align: center;">324</p> <p>1   <b>money, into the production of ethanol.</b>      2   Q. So would the Atkins diet have an impact      3   on the price of eggs?</p> <p>4   <b>A. It would be a contributing factor to the</b>      5   <b>demand of eggs.</b></p> <p>6   Q. And would demand for eggs have an impact      7   on the price of eggs?</p> <p>8   <b>A. Yes. The demand of eggs as a whole</b>      9   <b>would have an impact on price.</b></p> <p>10   Q. So population growth would have an      11   impact on the price of eggs?</p> <p>12   <b>A. That's correct.</b></p> <p>13   Q. And would a demand for U.S. eggs in      14   Europe have an impact on the price of eggs?</p> <p>15   <b>A. The exports of U.S. eggs would have an</b>      16   <b>impact on the price of U.S. eggs. It would be a</b>      17   <b>contributing factor to the entire fundamentals of</b>      18   <b>the industry.</b></p> <p>19   Q. But if there was a demand in Europe for      20   U.S. eggs, that would then have an impact on the      21   price of -- domestic prices of U.S. eggs, correct?</p> <p>22   <b>A. Yes. It would be a contributing factor.</b></p>
<p style="text-align: center;">323</p> <p>1   fully in the complaint. You understand it.      2   Dean, where are we?</p> <p>3   THE VIDEOGRAPHER: We have ten minutes      4   left.</p> <p>5   MR. CAMPBELL: Okay.</p> <p>6   BY MR. HUTCHINSON:</p> <p>7   Q. Do feed costs impact the price of eggs?</p> <p>8   <b>A. Feed cost is a contributing factor to</b>      9   <b>the price of eggs.</b></p> <p>10   Q. Would an ethanol mandate increase the      11   price of eggs?</p> <p>12   <b>A. An ethanol mandate would have an impact</b>      13   <b>on the price of corn and feed. And then corn and</b>      14   <b>feed would thereby impact the price of eggs and it</b>      15   <b>would be a contributing factor to that.</b></p> <p>16   Q. Are you aware that during the relevant      17   time period that agribusiness was putting money      18   into ethanol production that may have otherwise      19   gone into things like egg production?</p> <p>20   <b>A. I am aware that during the period of '99</b>      21   <b>to 2009 or 2008, there was an mandate in ethanol</b>      22   <b>which put a lot of money, both private and public</b></p>	<p style="text-align: center;">325</p> <p>1   Q. Are there other factors other than those      2   that we just walked through that would have an      3   impact on the price of eggs?</p> <p>4   <b>A. You know, diseases would be another</b>      5   <b>factor that would -- that could have an impact on</b>      6   <b>the price of eggs.</b></p> <p>7   Q. Anything else?</p> <p>8   <b>A. You know, I think that's the majority of</b>      9   <b>it.</b></p> <p>10   Q. And anything in Exhibit 24, which is      11   General Mills' second amended complaint, that --      12   any allegation in there that would have an impact      13   on the price of eggs?</p> <p>14   <b>A. Can you be more specific?</b></p> <p>15   Q. I don't think that there is anything in      16   there, so I'm asking you. Are there any      17   allegations in there whatsoever that would have an      18   impact on the price of eggs?</p> <p>19   MR. CAMPBELL: I'm sorry. I just don't      20   understand that question. I really don't, Troy.</p> <p>21   MR. HUTCHINSON: Okay.</p> <p>22   MR. CAMPBELL: Is there an allegation in</p>

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<p style="text-align: center;">326</p> <p>1 the complaint filed in 2012 that impacted the price 2 of eggs from 1999 to 2008? Is that what you're 3 asking? I don't understand the question. 4 <b>BY MR. HUTCHINSON:</b> 5 Q. Is there -- well, this gets us back to 6 where we were at the beginning of this line of 7 questioning. Is there any conduct by the 8 defendants as alleged in that complaint that would 9 have an impact on the price of eggs? 10 <b>A. The conduct would be outlined in this complaint that states -- you know, that affected the price of eggs is outlined in this complaint.</b> 11 Q. So we just walked through the factors 12 that you have testified impact the price of eggs, 13 feed costs, the ethanol mandate, Atkins diet, 14 demand, population growth -- 15 <b>A. Mm-hmm.</b> 16 Q. -- demand in Europe, and then you added 17 disease. 18 <b>A. Yes.</b> 19 Q. Any other factors? 20 <b>A. I guess if you want to say, you know,</b></p>	<p style="text-align: center;">328</p> <p>1 THE VIDEOGRAPHER: We are back on the 2 record at 5:34 p.m. 3 EXAMINATION BY COUNSEL FOR THE PLAINTIFF 4 GENERAL MILLS AND THE DEONENT 5 <b>BY MR. CAMPBELL:</b> 6 Q. Mr. Tran, Mr. Hutchinson went through a 7 litany of variables that might affect or, to use 8 his word, impact the price of eggs. Do you recall 9 that? 10 MR. HUTCHINSON: Objection to form. 11 MR. DAVIS: Objection. 12 <b>A. Yes.</b> 13 BY MR. CAMPBELL: 14 Q. Would a conspiracy by producers of eggs 15 to fix the price of eggs impact the price of eggs? 16 MR. DAVIS: Objection. 17 <b>A. Yes, it would.</b> 18 Q. You were asked about the fact that 19 General Mills was considering buying a million 20 eggs, cage-free eggs a year. Do you recall that? 21 <b>A. Yes.</b> 22 Q. How many eggs a year does General Mills</p>
<p style="text-align: center;">327</p> <p>1 <b>capital margin, margin expectations, by suppliers, that can impact it. Those are all contributing factors to ultimately the price of eggs.</b> 2 Q. And any other factors that impact the 3 price of eggs? 4 <b>A. Outside of that, I think that's the majority of it.</b> 5 MR. HUTCHINSON: Okay. I don't have 6 anything else. 7 MR. CAMPBELL: Okay. We'll take about 8 five to ten minutes and then I'll have a five to 9 ten minute cross and then we'll be done. Okay? 10 MR. HUTCHINSON: What do we have on -- 11 we'll probably reserve at least a little bit for 12 our redirect if we have any time left. 13 MR. CAMPBELL: What's the time now? 14 THE VIDEOGRAPHER: 6:55 and 34 seconds. 15 MR. DAVIS: We can go off the record. 16 THE VIDEOGRAPHER: We're going off the 17 record at 5:23 p.m. 18 (Whereupon, a recess was taken from 5:23 19 p.m. to 5:34 p.m.)</p>	<p style="text-align: center;">329</p> <p>1 buy? 2 <b>A. Eggs we would buy anywhere between 80 million to 90 million eggs.</b> 3 Q. You were asked some questions about 4 whether or not prior to General Mills' switch to 5 Rembrandt as a producer, egg producer, whether all 6 egg prices were based upon the Urner Barry index. 7 Do you recall that question? 8 <b>A. Yes.</b> 9 Q. Were they -- were all purchases prior to 10 that switch based upon Urner Barry? 11 <b>A. Yes.</b> 12 Q. You were shown in Exhibit 22 what was 13 characterized as a fair pricing model. Do you 14 recall that? 15 <b>A. Yes, I do.</b> 16 Q. Did General Mills ever attempt to 17 negotiate with its suppliers based upon that fair 18 pricing model? 19 <b>A. No. That fair pricing model was for our own internal use and for other own edification.</b> 20 <b>Our pricing structures were based off of Urner</b></p>

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<p style="text-align: right;">330</p> <p><b>Barry.</b></p> <p>Q. You were asked whether you got differing price quotes or proposals from various suppliers. Do you recall that?</p> <p><b>A. Yes.</b></p> <p>Q. Did those price proposals differ with respect to the underlying Urner Barry index at all?</p> <p><b>A. No, they did not. The only pieces that would differ would be freight and packaging, depending on where the suppliers' locations were and what types of packaging they used.</b></p> <p>Q. Would you look at exhibits -- I'll give you -- 36 and 37. Here they are right here. And you were asked a series of questions about the fact that the words "animal welfare" appear in those exhibits. Are those exhibits General Mills exhibits?</p> <p><b>A. These exhibits don't appear to be General Mills exhibits and they look more like a sales pitch from an outside company or person.</b></p> <p>Q. And there was much discussion about this Betty Crocker licensing proposal made by Affinity</p>	<p style="text-align: right;">332</p> <p><b>versus looking at Urner Barry to use this model. So in essence the supplier really disincentivized us to use it.</b></p> <p>Q. So are you saying that a grain-based model does not necessarily result in the lowest price to General Mills?</p> <p>MR. DAVIS: Objection to form.</p> <p><b>A. This probably from the supplier did not result in better pricing for General Mills.</b></p> <p>BY MR. CAMPBELL:</p> <p>Q. This particular proposal --</p> <p><b>A. This particular proposal.</b></p> <p>Q. -- from Waldbaum?</p> <p><b>A. That's correct.</b></p> <p>MR. CAMPBELL: Okay. I have no further questions.</p> <p>MR. DAVIS: Go off the record for one moment.</p> <p>THE VIDEOGRAPHER: We're going off the record at 5:40.</p> <p>(Whereupon, an off the record discussion was held from 5:40 p.m to 5:43 p.m.)</p>
<p style="text-align: right;">331</p> <p>Marketing. Was that proposal accepted or rejected?</p> <p><b>A. It was rejected.</b></p> <p>Q. You were shown Exhibit 14 which counsel for defendants characterized as a grain-based proposal from Michael Foods in July 2001. Do you recall that --</p> <p><b>A. Yes.</b></p> <p>Q. -- exhibit?</p> <p>Why was the Michael Foods grain-based proposal unacceptable to General Mills?</p> <p>MR. DAVIS: Objection to form.</p> <p><b>A. General Mills gets a lot of different proposals --</b></p> <p>Q. Let me cure Mr. Davis' objection, if I may. Was the proposal embodied in Exhibit 14 acceptable to General Mills?</p> <p>MR. DAVIS: Objection to form.</p> <p><b>A. It was not. We didn't enact that proposal.</b></p> <p>BY MR. CAMPBELL:</p> <p>Q. Why not?</p> <p><b>A. Because there was not enough value to --</b></p>	<p style="text-align: right;">333</p> <p>THE VIDEOGRAPHER: We're back on the record at 5:43 p.m.</p> <p><b>FURTHER EXAMINATION BY COUNSEL FOR THE DEFENDANTS UNITED EGG PRODUCERS AND UNITED STATES EGG MARKETERS</b></p> <p>BY MR. DAVIS:</p> <p>Q. Mr. Tran, you testified in response Mr. Campbell's question that a conspiracy by producers to reduce the supply of eggs would result in an increase in the price of eggs; is that correct?</p> <p><b>A. Correct.</b></p> <p>Q. But your testimony earlier, I believe, is that General Mills has absolutely no knowledge of why that is the case outside of things that were told to it by its lawyers at Jenner &amp; Block. Is that accurate?</p> <p>MR. CAMPBELL: I object. That mischaracterizes the testimony.</p> <p>BY MR. DAVIS:</p> <p>Q. I'm asking if that's an accurate characterization of your testimony.</p> <p><b>A. Can you ask the question in another way?</b></p>

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<p style="text-align: right;">334</p> <p>1 Q. Sure. Does General Mills have any 2 knowledge supporting its belief that a conspiracy 3 by egg producers to reduce the supply of eggs would 4 result in an increase in the price of eggs that 5 comes from any source other than its outside 6 counsel?</p> <p>7     <b>A. Not other than what was discussed with 8 outside counsel and depicted in the complaint.</b></p> <p>9     Q. So if it's not in the complaint and it 10 wasn't provided to General Mills from its outside 11 litigation counsel, General Mills doesn't know of 12 anything beyond that supporting that allegation?</p> <p>13     <b>A. Yeah. We don't, no.</b></p> <p>14     Q. Okay. Would you turn back to Exhibit 15 14?</p> <p>16     <b>A. Mm-hmm.</b></p> <p>17     Q. Is it your testimony that at no point 18 did General Mills accept grain-based pricing from 19 Waldbaum or Michael Foods?</p> <p>20     <b>A. Yeah. We didn't have grain-based 21 pricing from our suppliers before Rembrandt.</b></p> <p>22     Q. So earlier if you testified that you</p>	<p style="text-align: right;">336</p> <p>1 packaging?</p> <p>2     <b>A. Correct.</b></p> <p>3     Q. And General Mills was never able to 4 negotiate any term other than freight and 5 packaging?</p> <p>6     <b>A. Correct.</b></p> <p>7     Q. Okay. Even though General Mills -- the 8 division of price or the breakdown of price 9 provided by a supplier between market price and 10 freight and packaging was not always transparent to 11 General Mills? Is that your earlier testimony?</p> <p>12     MR. CAMPBELL: Again, I object to -- I 13 don't recall that testimony. But if that's what 14 the record shows then he can answer that question.</p> <p>15     <b>A. Yeah. The delivered cost that we would 16 see would be one price. But underneath that price 17 would be freight, packaging and the underlying 18 Urner Barry cost.</b></p> <p>19     BY MR. DAVIS:</p> <p>20     Q. And that was true in every instance that 21 General Mills purchased on a market basis from 1999 22 on?</p>
<p style="text-align: right;">335</p> <p>1 didn't know and that it was possible that General 2 Mills did, that testimony is no longer accurate?</p> <p>3     <b>A. Can you repeat your statement?</b></p> <p>4     Q. If you earlier testified to that General 5 Mills may have accepted grain-based pricing, that 6 testimony would not be accurate?</p> <p>7     MR. CAMPBELL: I object to -- the record 8 is what it is. And are you representing that he 9 testified to that?</p> <p>10     MR. DAVIS: We can look back. That was 11 my recollection. It could be mistaken.</p> <p>12     MR. CAMPBELL: Okay. You can answer 13 that question.</p> <p>14     <b>A. General Mills did not have any 15 grain-based pricing prior to our Rembrandt model.</b></p> <p>16     BY MR. DAVIS:</p> <p>17     Q. Now the pricing that General Mills had 18 that was market based that incorporated Urner Barry 19 pricing, is it General Mills' position that during 20 the entire time it purchased from 1999 on on a 21 market basis the only price terms that it 22 successfully negotiated related to freight and</p>	<p style="text-align: right;">337</p> <p>1     <b>A. Yes. We would have an understanding of 2 all of those components.</b></p> <p>3     Q. General Mills had transparency into the 4 breakdown of how that price was arrived at?</p> <p>5     <b>A. Yes.</b></p> <p>6     MR. DAVIS: Good. That's all the 7 questions that I have. Thank you very much for 8 your time.</p> <p>9     MR. CAMPBELL: Troy. Do you have 10 anything else?</p> <p>11     MR. HUTCHINSON: All right. As long as 12 we're here.</p> <p>13     FURTHER EXAMINATION BY COUNSEL FOR THE 14 DEFENDANT SPARBOE FARMS 15     BY MR. HUTCHINSON:</p> <p>16     Q. Mr. Tran, your counsel, Mr. Campbell, 17 asked you whether you thought a conspiracy would 18 have an impact on price. Do you remember that?</p> <p>19     <b>A. Yes.</b></p> <p>20     Q. And what was your answer?</p> <p>21     <b>A. That it could have an impact on price.</b></p> <p>22     Q. How could a conspiracy have an impact on</p>

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<p style="text-align: right;">338</p> <p>1 price? Can you explain that to me?</p> <p>2     <b>A. Well, if they are -- if the entire</b>      3 <b>industry is deciding, you know, to raise their</b>      4 <b>margins as I had talked about before as margin</b>      5 <b>expansion being, you know, a possibility in</b>      6 <b>affecting price, if everybody in the industry</b>      7 <b>colluded to expand their margins, that would raise</b>      8 <b>prices.</b></p> <p>9     Q. And is General Mills -- has General      10 Mills alleged that my clients, Sparboe Foods,      11 conspired to raise margins?</p> <p>12     <b>A. They conspired to fix prices, which</b>      13 <b>raised prices.</b></p> <p>14     Q. But did they conspire to raise margins?</p> <p>15     <b>A. No. The question is -- your question</b>      16 <b>was can margins or conspiracy or collusion</b>      17 <b>ultimately raise prices. And my answer is that,</b>      18 <b>yes, it could and marginal expansion could be an</b>      19 <b>avenue of how they would go about doing that or the</b>      20 <b>effect of it.</b></p> <p>21     Q. Right. But what I'm asking you is did      22 my client, Sparboe Foods, use margin expansion as</p>	<p style="text-align: right;">340</p> <p>1 that a portion of his personal knowledge, if indeed      2 not all, is based upon communications with counsel      3 and is therefore privileged.</p> <p>4     <b>A. I wouldn't have any knowledge other than</b>      5 <b>what has been discussed with counsel.</b></p> <p>6         BY MR. HUTCHINSON:</p> <p>7         Q. So as you sit here today you can't tell      8 me about any agreements that my client, Sparboe      9 Farms, entered into with other egg producers?</p> <p>10         <b>A. Not other than what I have learned from</b>      11 <b>counsel.</b></p> <p>12         Q. And what have you learned from counsel?</p> <p>13         MR. CAMPBELL: Objection. I instruct      14 you not to answer that question.</p> <p>15         <b>A. Other than what I've gotten from</b>      16 <b>counsel, that's -- that's what I have.</b></p> <p>17         MR. DAVIS: Dick, I just want to make      18 sure the record is very clear on this. It's your      19 position that facts that are within the witness'      20 knowledge or the company's knowledge that were      21 given to the witness or the company from counsel,      22 that the facts themselves are privileged?</p>
<p style="text-align: right;">339</p> <p>1 an avenue to conspire?</p> <p>2     <b>A. Well, I wouldn't know if they used it to</b>      3 <b>just expand their margins or did they use it in</b>      4 <b>some other way to raise prices. How they</b>      5 <b>ultimately used that price increase I'm not sure.</b></p> <p>6     Q. So is this just a hypothetical      7 conspiracy that you're talking about?</p> <p>8         MR. CAMPBELL: Objection.</p> <p>9         <b>A. No. The complaint is that there was</b>      10 <b>collusion for price fixing. Right? And that's</b>      11 <b>our -- that's our complaint. What they did with</b>      12 <b>the money that they got out of it, you know, I</b>      13 <b>wouldn't know or have any insight into.</b></p> <p>14         BY MR. HUTCHINSON:</p> <p>15     Q. So focusing on my client, Sparboe Farms,      16 are you aware of any agreement that Sparboe entered      17 into with other egg producers?</p> <p>18         MR. CAMPBELL: You mean outside what      19 he's learned from counsel?</p> <p>20         MR. HUTCHINSON: No. I'm asking him on      21 the basis of your personal knowledge.</p> <p>22         MR. CAMPBELL: I object on the ground</p>	<p style="text-align: right;">341</p> <p>1         MR. CAMPBELL: Yes.</p> <p>2         MR. DAVIS: Okay.</p> <p>3         MR. CAMPBELL: They're work product.</p> <p>4         MR. DAVIS: We disagree with that      5 position.</p> <p>6         MR. CAMPBELL: I understand you      7 disagree.</p> <p>8         MR. DAVIS: I'm just making a record.</p> <p>9         MR. CAMPBELL: I understand that.</p> <p>10         BY MR. HUTCHINSON:</p> <p>11         Q. So, Mr. Tran, my client is at a loss for      12 why General Mills has sued it. My client doesn't      13 feel like it's done anything wrong. They produce      14 eggs and they sell eggs. You're here today to      15 provide testimony for General Mills to explain to      16 the jury and the Court why General Mills has sued      17 not only my client but all of the other egg      18 defendants. And can you give me any explanation      19 for what my client did?</p> <p>20         MR. CAMPBELL: Objection. Other -- if      21 he has any knowledge other than what he's been      22 communicated by counsel he may answer. And he's</p>

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<p style="text-align: center;">342</p> <p>1 already given that answer repeatedly, which is he's 2 read the complaint. 3 BY MR. HUTCHINSON: 4 Q. Is there anything that you'd like to 5 tell the jury and the judge about what Sparboe 6 Farms did to conspire with -- 7 <b>A. I think those are laid out in the</b> 8 <b>complaint.</b> 9 Q. And is there anything in the complaint 10 that you'd like the jury and the judge to know? 11 <b>A. Other than what's listed in the</b> 12 <b>complaint and outlined in the complaint?</b> 13 Q. Well, can you list -- can you list one 14 of those things that my client did that's listed in 15 the complaint? 16 MR. CAMPBELL: We're not going to have 17 him sit here and read -- 18 MR. HUTCHINSON: I just want one thing. 19 Just one. 20 BY MR. HUTCHINSON: 21 Q. Just one thing that my client, Sparboe 22 Farms, did?</p>	<p style="text-align: center;">344</p> <p>1 what it is. 2 MR. CAMPBELL: Yup. 3 MR. HUTCHINSON: Okay. I don't have 4 anything else. 5 THE VIDEOGRAPHER: We're going off the 6 record at a 5:43 p.m. 7 (Reading and signing reserved). 8 (Whereupon, at 5:43 p.m. the videotaped 9 deposition was adjourned.) 10 * * * * *</p> <p style="text-align: center;">11</p> <p style="text-align: center;">12</p> <p style="text-align: center;">13</p> <p style="text-align: center;">14 SIGNATURE OF WITNESS</p> <p style="text-align: center;">15</p> <p>16 Subscribed and sworn to and before me 17 this _____ day of _____, 20_____. 18</p> <p style="text-align: center;">19</p> <p style="text-align: center;">20</p> <p style="text-align: center;">21 Notary Public</p> <p style="text-align: center;">22</p>
<p style="text-align: center;">343</p> <p>1 <b>A. Well, we can read the complaint, but,</b> 2 <b>you know, do we -- I don't think we really want to</b> 3 <b>go down that path.</b> 4 Q. I don't want to read the complaint. I 5 just want to know one thing. I want you to tell 6 the jury and the judge one thing that my client, 7 Sparboe Farms did. 8 MR. CAMPBELL: I object. It's an 9 improper question and it's argumentative. And I 10 will tell the jury and the judge precisely what 11 Sparboe did. You can be assured of that. 12 MR. HUTCHINSON: I'm looking for witness 13 testimony from the company who's bringing the 14 allegations. 15 BY MR. HUTCHINSON: 16 Q. So is there just one thing? 17 <b>A. Well, we can open up the complaint if</b> 18 <b>you want to --</b> 19 MR. CAMPBELL: No. We're not going to 20 do that. I've allowed you to go beyond your time. 21 Enough is enough, Mr. Hutchinson. Okay? 22 MR. HUTCHINSON: Okay. The record is</p>	<p style="text-align: center;">345</p> <p>1 REPORTER'S CERTIFICATE 2 STATE OF MINNESOTA ) 3 SS. 4 COUNTY OF HENNEPIN ) 5 I hereby certify that I reported the 6 deposition of Binh K. Tran on August 13, 2013, in 7 Minneapolis, Minnesota, and that the witness was by me first duly sworn to tell the whole truth; 8 That the testimony was transcribed by me and that this transcript is a true record of the testimony of the witness; 9 That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies; 10 That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel; 11 That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality. 12 WITNESS MY HAND AND SEAL THIS 16th day of August, 2013. 13 14 15 16 17 18 19 Jonathan Wonnell 20 Notary Public, Hennepin County, Minnesota 21 My Commission expires January 31, 2017e. 22</p>

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